

***** *Act 179 of 1991 THIS ACT IS REPEALED BY ACT 295 OF 2000 EFFECTIVE DECEMBER 31, 2005*

MICHIGAN TELECOMMUNICATIONS ACT

Act 179 of 1991

AN ACT to regulate and insure the availability of certain telecommunication services; to prescribe the powers and duties of certain state agencies and officials; to prescribe penalties; to repeal certain acts and parts of acts; and to repeal this act on a specific date.

History: 1991, Act 179, Eff. Jan. 1, 1992.

The People of the State of Michigan enact:

ARTICLE 1

GENERAL PROVISIONS

***** *484.2101 THIS SECTION IS REPEALED BY ACT 295 OF 2000 EFFECTIVE DECEMBER 31, 2005*

484.2101 Short title; purpose.

Sec. 101. (1) This act shall be known and may be cited as the "Michigan telecommunications act".

(2) The purpose of this act is to do all of the following:

(a) Ensure that every person has access to just, reasonable, and affordable basic residential telecommunication service.

(b) Allow and encourage competition to determine the availability, prices, terms, and other conditions of providing telecommunication services.

(c) Restructure regulation to focus on price and quality of service and not on the provider. Supplement existing state and federal law regarding antitrust, consumer protection, and fair trade to provide additional safeguards for competition and consumers.

(d) Encourage the introduction of new services, the entry of new providers, the development of new technologies, and increase investment in the telecommunication infrastructure in this state through incentives to providers to offer the most efficient services and products.

(e) Improve the opportunities for economic development and the delivery of essential services including education and health care.

(f) Streamline the process for setting and adjusting the rates for regulated services that will ensure effective rate review and reduce the costs and length of hearings associated with rate cases.

(g) Encourage the use of existing educational telecommunication networks and networks established by other commercial providers as building blocks for a cooperative and efficient statewide educational telecommunication system.

(h) Ensure effective review and disposition of disputes between telecommunication providers.

(i) Authorize actions to encourage the development of a competitive telecommunication industry.

History: 1991, Act 179, Eff. Jan. 1, 1992;—Am. 1995, Act 216, Imd. Eff. Nov. 30, 1995;—Am. 2000, Act 295, Imd. Eff. July 17, 2000.

***** *484.2102 THIS SECTION IS REPEALED BY ACT 295 OF 2000 EFFECTIVE DECEMBER 31, 2005:*
See 484.2604 *****

484.2102 Definitions.

Sec. 102. As used in this act:

(a) "Access service" means access to a local exchange network for the purpose of enabling a provider to originate or terminate telecommunication services within the local exchange. Except for end-user common line services, access service does not include access service to a person who is not a provider.

(b) "Basic local exchange service" or "local exchange service" means the provision of an access line and usage within a local calling area for the transmission of high-quality 2-way interactive switched voice or data communication.

(c) "Cable service" means 1-way transmission to subscribers of video programming or other programming services and subscriber interaction for the selection of video programming or other programming services.

(d) "Commission" means the Michigan public service commission.

(e) "Contested case" or "case" means a proceeding as defined in section 3 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.203.

(f) "Educational institution" means a public educational institution or a private non-profit educational institution approved by the department of education to provide a program of primary, secondary, or higher education, a public library, or a nonprofit association or consortium whose primary purpose is education. A nonprofit association or consortium under this subdivision shall consist of 2 or more of the following:

(i) Public educational institutions.

(ii) Nonprofit educational institutions approved by the department of education.

(iii) The state board of education.

(iv) Telecommunication providers.

(v) A nonprofit association of educational institutions or consortium of educational institutions.

(g) "Energy management services" means a service of a public utility providing electric power, heat, or light for energy use management, energy use control, energy use information, and energy use communication.

(h) "Exchange" means 1 or more contiguous central offices and all associated facilities within a geographical area in which local exchange telecommunication services are offered by a provider.

(i) "Information services" or "enhanced services" means the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information, including energy management services, that is conveyed by telecommunications. Information services or enhanced services do not include the use of such capability for the management, control, or operation of a telecommunications system or the management of a telecommunications service.

(j) "Interconnection" means the technical arrangements and other elements necessary to permit the connection between the switched networks of 2 or more providers to enable a telecommunication service originating on the network of 1 provider to terminate on the network of another provider.

(k) "Inter-LATA prohibition" means the prohibitions on the offering of inter-exchange or inter-LATA service contained in the modification of final judgment entered pursuant to a consent decree in United States v American Telephone and Telegraph Co., 552 F. Supp. 131 (D.D.C. 1982), and in the consent decree approved in United States v GTE Corp., 603 F. Supp. 730 (D.D.C. 1984).

(l) "LATA" means the local access and transport area as defined in United States v American Telephone and Telegraph Co., 569 F. Supp. 990 (D.D.C. 1983).

(m) "License" means a license issued pursuant to this act.

(n) "Line" or "access line" means the medium over which a telecommunication user connects into the local exchange.

(o) "Local calling area" means a geographic area encompassing 1 or more local communities as described in maps, tariffs, or rate schedules filed with and approved by the commission.

(p) "Local directory assistance" means the provision by telephone of a listed telephone number within the caller's area code.

(q) "Local exchange rate" means the monthly and usage rate, including all necessary and attendant charges, imposed for basic local exchange service to customers.

(r) "Loop" means the transmission facility between the network interface on a subscriber's premises and the main distribution frame in the servicing central office.

(s) "Operator service" means a telecommunication service that includes automatic or live assistance to a person to arrange for completion and billing of a telephone call originating within this state that is specified by the caller through a method other than 1 of the following:

(i) Automatic completion with billing to the telephone from which the call originated.

MICHIGAN TELECOMMUNICATIONS ACT

- (ii) Completion through an access code or a proprietary account number used by the person, with billing to an account previously established with the provider by the person.
- (iii) Completion in association with directory assistance services.
- (t) "Operator service provider" or "OSP" means a provider of operator service.
- (u) "Payphone service" means a telephone call provided from a public, semipublic, or individually owned and operated telephone that is available to the public and is accessed by the depositing of coin or currency or by other means of payment at the time the call is made.
- (v) "Person" means an individual, corporation, partnership, association, governmental entity, or any other legal entity.
- (w) "Person with disabilities" means a person who has 1 or more of the following physical characteristics:
 - (i) Blindness.
 - (ii) Inability to ambulate more than 200 feet without having to stop and rest during any time of the year.
 - (iii) Loss of use of 1 or both legs or feet.
 - (iv) Inability to ambulate without the prolonged use of a wheelchair, walker, crutches, braces, or other device required to aid mobility.
 - (v) A lung disease from which the person's expiratory volume for 1 second, when measured by spirometry, is less than 1 liter, or from which the person's arterial oxygen tension is less than 60 mm/hg of room air at rest.
 - (vi) A cardiovascular disease from which the person measures between 3 and 4 on the New York heart classification scale, or from which a marked limitation of physical activity causes fatigue, palpitation, dyspnea, or anginal pain.
 - (vii) Other diagnosed disease or disorder including, but not limited to, severe arthritis or a neurological or orthopedic impairment that creates a severe mobility limitation.
- (x) "Port" except for the loop, means the entirety of local exchange, including dial tone, a telephone number, switching software, local calling, and access to directory assistance, a white pages listing, operator services, and interexchange and intra-LATA toll carriers.
- (y) "Reasonable rate" or "just and reasonable rate" means a rate that is not inadequate, excessive, or unreasonably discriminatory. A rate is inadequate if it is less than the total service long run incremental cost of providing the service.
- (z) "Residential customer" means a person to whom telecommunication services are furnished predominantly for personal or domestic purposes at the person's dwelling.
- (aa) "Special access" means the provision of access service, other than switched access service, to a local exchange network for the purpose of enabling a provider to originate or terminate telecommunication service within the exchange, including the use of local private lines.
- (bb) "State institution of higher education" means an institution of higher education described in sections 4, 5, and 6 of article VIII of the state constitution of 1963.
- (cc) "Telecommunication provider" or "provider" means a person or an affiliate of the person each of which for compensation provides 1 or more telecommunication services.
- (dd) "Telecommunication services" or "services" includes regulated and unregulated services offered to customers for the transmission of 2-way interactive communication and associated usage. A telecommunication service is not a public utility service.
- (ee) "Toll service" means the transmission of 2-way interactive switched communication between local calling areas. Toll service does not include individually negotiated contracts for similar telecommunication services or wide area telecommunications service.
- (ff) "Total service long run incremental cost" means, given current service demand, including associated costs of every component necessary to provide the service, 1 of the following:
 - (i) The total forward-looking cost of a telecommunication service, relevant group of services, or basic network component, using current least cost technology that would be required if the provider had never offered the service.
 - (ii) The total cost that the provider would incur if the provider were to initially offer the service, group of services, or basic network component.
- (gg) "Wide area telecommunications service" or "WATS" means the transmission of 2-way interactive switched communication over a dedicated access line.

History: 1991, Act 179, Eff. Jan. 1, 1992;—Am. 1995, Act 216, Imd. Eff. Nov. 30, 1995;—Am. 1998, Act 41, Imd. Eff. Mar. 18, 1998.

******* 484.2103 THIS SECTION IS REPEALED BY ACT 295 OF 2000 EFFECTIVE DECEMBER 31, 2005**

MICHIGAN TELECOMMUNICATIONS ACT

484.2103 Construction of act; report on status of competition in telecommunication services.

Sec. 103. (1) Except as otherwise provided in this act, this act shall not be construed to prevent any person from providing telecommunication services in competition with another telecommunication provider.

(2) The commission shall submit an annual report describing the status of competition in telecommunication services in this state, including, but not limited to, the toll and local exchange service markets in this state. The report required under this section shall be submitted to the governor and the house and senate standing committees with oversight of telecommunication issues.

History: 1991, Act 179, Eff. Jan. 1, 1992;—Am. 2000, Act 295, Imd. Eff. July 17, 2000.

ARTICLE 2

MICHIGAN PUBLIC SERVICE COMMISSION

***** **484.2201 THIS SECTION IS REPEALED BY ACT 295 OF 2000 EFFECTIVE DECEMBER 31, 2005**

484.2201 Michigan public service commission; jurisdiction; authority; administration of act; consistency with federal laws, rules, orders, and regulations.

Sec. 201. (1) Except as otherwise provided by this act, the Michigan public service commission shall have the jurisdiction and authority to administer this act and all federal telecommunications laws, rules, orders, and regulations that are delegated to the state.

(2) The commission shall exercise its jurisdiction and authority consistent with this act and all federal telecommunications laws, rules, orders, and regulations.

History: 1991, Act 179, Eff. Jan. 1, 1992;—Am. 2000, Act 295, Imd. Eff. July 17, 2000.

***** **484.2202 THIS SECTION IS REPEALED BY ACT 295 OF 2000 EFFECTIVE DECEMBER 31, 2005:**
See 484.2604 *****

484.2202 Michigan public service commission; additional powers and duties.

Sec. 202. In addition to the other powers and duties prescribed by this act, the commission shall do all of the following:

(a) Establish by order the manner and form in which telecommunication providers of regulated services within the state keep accounts, books of accounts, and records in order to determine the total service long run incremental costs and imputation requirements of this act of providing a service. The commission requirements under this subdivision shall be consistent with any regulations covering the same subject matter made by the federal communications commission.

(b) Require by order that a provider of a regulated service, including access service, make available for public inspection and file with the commission a schedule of the provider's rates, services, and conditions of service, including access service provided by contract.

(c) Promulgate rules under section 213 and issue orders to establish and enforce quality standards for providing telecommunication services in this state.

(d) Preserve the provision of high quality basic local exchange service.

(e) Create a task force to study changes occurring in the federal universal service fund and the need for the establishment of a state universal service fund to promote and maintain basic local exchange service in high cost rural areas at affordable rates. The task force shall issue a report to the legislature and governor on or before December 31, 1996 containing its findings and recommendations. The task force shall consist of all of the following members:

(i) The chairperson of the commission.

MICHIGAN TELECOMMUNICATIONS ACT

- (ii) One representative from each basic local exchange provider with 250,000 or more access lines.
- (iii) Four representatives from providers who, together with affiliated providers, provide basic local exchange or toll service to less than 250,000 end users in this state.
- (iv) Two representatives of other providers of regulated services.
- (v) One representative of the general public.
- (f) On or before January 1, 1997, the commission shall study and report to the legislature and governor on the following matters that have impact on the basic local exchange calling activities of all residential customers in the state:
 - (i) The percentage of intra-LATA calls and minutes of usage which are charged as basic local exchange calls.
 - (ii) The average size and range of sizes of basic local exchange calling areas.
 - (iii) The ability of customers to contact emergency services, school districts, and county, municipal, and local units of government without a toll call.
 - (iv) Whether there are significant differences in basic local exchange calling patterns between urban, suburban, and rural areas.
 - (v) The impact on basic local exchange rates which would occur if basic local exchange calling areas are altered.
 - (vi) The impact when basic local exchange calling areas overlap LATA boundaries.
 - (vii) The impact on basic local exchange rates which would occur if basic local exchange calling areas are expanded within LATA boundaries.
- (g) On or before January 1, 1997, conduct a study of internet access provider locations to determine which exchanges can reach the nearest location only by making a toll call. The commission shall then gather input from internet access providers, local exchange providers, and other interested parties and make a recommendation to the legislature as to the steps needed to allow all local exchange customers to access an internet provider by making a local call.

History: 1991, Act 179, Eff. Jan. 1, 1992;—Am. 1995, Act 216, Imd. Eff. Nov. 30, 1995.

Administrative rules: R 484.401 et seq. of the Michigan Administrative Code.

***** **484.2203 THIS SECTION IS REPEALED BY ACT 295 OF 2000 EFFECTIVE DECEMBER 31, 2005**

484.2203 Commencement of case; filing; emergency relief order; burden of proof; investigation; hearings; judicial review; continuation of service; posting security; alternative dispute process; additional relief.

Sec. 203. (1) Upon receipt of an application or complaint filed under this act, or on its own motion, the commission may conduct an investigation, hold hearings, and issue its findings and order under the contested hearings provisions of the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(2) If a complaint filed under this section alleges facts that warrant emergency relief, the complainant may request an emergency relief order. On the date of filing, the complaint and request for emergency relief shall be hand-delivered to the respondent at its principal place of business in Michigan. The commission shall allow 5 business days for a filing in response to the request for emergency relief. The commission shall review the complaint, the request for emergency relief, the response, and all supporting materials and determine whether to deny the request for emergency relief or to conduct an initial evidentiary hearing. The initial evidentiary hearing shall be conducted within 5 business days from the date of the notice of hearing and the commission shall issue an order granting or denying the request for emergency relief. An order for emergency relief may require a party to act or refrain from action to protect competition. Any action required by an order for emergency relief shall be technically feasible and economically reasonable and the respondent shall be given a reasonable period of time to comply with the order. At the hearing for emergency relief, the respondent has the burden of showing that the order is not technically feasible and not economically reasonable. If the commission finds that extraordinary circumstances exist that warrant expedited review before the commission's issuance of a final order, it shall set a schedule providing for the issuance of a partial final order as to all or part of the issues for which emergency relief was granted within 90 days of the issuance of the emergency relief order.

(3) An order for emergency relief may be granted under subsection (2) if the commission finds all of the following:

- (a) That the party has demonstrated exigent circumstances that warrant emergency relief.

- (b) That the party seeking relief will likely succeed on the merits.
- (c) That the party will suffer irreparable harm in its ability to serve customers if emergency relief is not granted.
- (d) That the order is not adverse to the public interest.
- (4) The commission may require the complainant to post a bond in an amount sufficient to make whole the respondent in the event that the order for emergency relief is later found to have been erroneously granted.
- (5) An order for emergency relief shall expire upon the sooner of any of the following:
 - (a) Ninety days after its issuance.
 - (b) Issuance of the commission's partial final order.
 - (c) An earlier date set by the commission. Notwithstanding this subsection, the commission may extend the emergency relief order to a date no later than the date on which the final order in the proceeding is issued.
- (6) An order granting or denying emergency relief under subsection (2) shall be subject to immediate review in the court of appeals as a matter of right by the party aggrieved. The review shall be de novo and shall comply with Michigan court rule 7.211(c)(6). The court may stay an order granting emergency relief upon the posting of a bond or other security in an amount and on terms set by the court. Regardless of whether an appeal is made under this subsection, the commission shall proceed with the case and issue a final order as otherwise required under this section.
- (7) An application or complaint filed under this section shall contain all information, testimony, exhibits, or other documents and information within the person's possession on which the person intends to rely to support the application or complaint. Applications or complaints that do not meet the requirements of this subsection shall be dismissed or suspended pending the receipt by the commission of the required information. If the complainant or applicant requires information in the possession of the respondent, not within the complainant's or applicant's possession, the commission may allow a reasonable opportunity for discovery to allow the complainant or applicant to provide all relevant information, testimony, exhibits, or other documents on which the complainant or applicant intends to rely to support its application or complaint.
- (8) The burden of proving a case filed under this act is with the party filing the application or complaint.
- (9) In a contested case under this section, the commission can administer oaths, certify all official acts, and compel the attendance of witnesses and the production of papers, books, accounts, documents, and testimony.
- (10) Except as otherwise provided in this section, the commission shall issue a final order in a case filed under this section within 90 days from the date the application or complaint is filed.
- (11) Except as provided for a hearing involving a request for emergency relief, if a hearing is required, the applicant or complainant shall publish a notice of hearing as required by the commission within 7 days of the date the application or complaint was filed or as required by the commission. The first hearing shall be held within 10 days after the date of the notice. If a hearing is held, the commission shall have 180 days from the date the application or complaint was filed to issue its final order. If the principal parties of record agree that the complexity of issues involved requires additional time, the commission may have up to 210 days from the date the application or complaint was filed to issue its final order. If the application or complaint is subject to section 203a, the commission shall have an additional 45 days to issue its final order.
- (12) An order of the commission shall be subject to review as provided by section 26 of 1909 PA 300, MCL 462.26.
- (13) If a complaint is filed under this section by a provider against another provider, the provider of service shall not discontinue service during the period of the contested case, including the alternative dispute process, if the provider receiving the service has posted a surety bond, provided an irrevocable letter of credit, or provided other adequate security in an amount and on a form as determined by the commission.
- (14) Except if there is a request for emergency relief under this section, if the complaint filed under this section involves an interconnection dispute between providers, the commission shall require the parties to utilize the alternative dispute process under section 203a.
- (15) In addition to any other relief provided by this act, the commission or a party may seek to compel compliance with a commission order by proceedings in mandamus, injunction, or by other appropriate civil remedies in the circuit court or other court of proper jurisdiction.
- (16) The amendatory act that added this subsection does not amend, alter, or limit any case or proceeding commenced before the effective date of this subsection.

History: 1991, Act 179, Eff. Jan. 1, 1992;—Am. 1995, Act 216, Imd. Eff. Nov. 30, 1995;—Am. 2000, Act 295, Imd. Eff. July 17, 2000.

******* 484.2203a THIS SECTION IS REPEALED BY ACT 295 OF 2000 EFFECTIVE DECEMBER 31, 2005**

484.2203a Resolution of complaint by alternative means.

Sec. 203a. (1) For all complaints involving a dispute of \$1,000.00 or less, a dispute under section 203(14), or at the option of the complainant, for a period of 45 days after the date the complaint is filed under section 203, the parties shall attempt alternative means of resolving the complaint.

(2) Any alternative means that will result in a recommended settlement may be used that is agreed to by the principal parties of record, including, but not limited to, settlement conferences, mediation, and other informal dispute resolution methods. If the parties cannot agree on an alternative means within 20 days after the date the complaint is filed, the commission shall order mediation. Within the 45-day period required under subsection (1), a recommended settlement shall be made to the parties.

(3) Within 7 days after the date of the recommended settlement, each party shall file with the commission a written acceptance or rejection of the recommended settlement. If the parties accept the recommendation, then the recommendation shall become the final order in the contested case under section 203.

(4) If a party rejects the recommended settlement, then the application or complaint shall proceed to a contested case hearing under section 203.

(5) The party that rejects the recommended settlement shall pay the opposing party's actual costs of proceeding to a contested case hearing, including attorney fees, unless the final order of the commission is more favorable to the rejecting party than the recommended settlement under this section. A final order is considered more favorable if it differs by 10% or more from the recommended settlement in favor of the rejecting party.

(6) If the recommendation is not accepted under subsection (3), the individual commissioners shall not be informed of the recommended settlement until they have issued their final order under section 203.

(7) An attempt to resolve a contested case under this section is exempt from the requirements of section 203 and the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(8) This section shall not extend or toll the time within which the commission is required to issue its final order under section 203.

History: Add. 1995, Act 216, Imd. Eff. Nov. 30, 1995;—Am. 2000, Act 295, Imd. Eff. July 17, 2000.

***** **484.2204 THIS SECTION IS REPEALED BY ACT 295 OF 2000 EFFECTIVE DECEMBER 31, 2005:**
See 484.2604 *****

484.2204 Disagreement between telecommunication providers; application for resolution.

Sec. 204. If 2 or more telecommunication providers are unable to agree on a matter relating to a regulated telecommunication issue between the parties, including but not limited to, a matter prohibited by section 305, then either telecommunication provider may file with the commission an application for resolution of the matter.

History: 1991, Act 179, Eff. Jan. 1, 1992.

***** **484.2205 THIS SECTION IS REPEALED BY ACT 295 OF 2000 EFFECTIVE DECEMBER 31, 2005:**
See 484.2604 *****

484.2205 Investigation and resolution of service complaints; commission authority.

Sec. 205. (1) The commission may investigate and resolve complaints under this act. The penalties under this act shall not be imposed for a violation that occurred more than 2 years before the date the complaint was filed.

(2) If the commission finds, after notice and hearing, that the quality, general availability, or conditions for the regulated service violate this act or an order of the commission under this act, or is adverse to the public interest, the commission may require changes in how the telecommunication services are provided. The commission's authority includes, but is not limited to, the revocation of a license and issuing cease and desist orders.

History: 1991, Act 179, Eff. Jan. 1, 1992;—Am. 1995, Act 216, Imd. Eff. Nov. 30, 1995.

484.2206 Repealed. 1995, Act 216, Imd. Eff. Nov. 30, 1995.

MICHIGAN TELECOMMUNICATIONS ACT

Compiler's note: The repealed section pertained to new telecommunication service.

***** **484.2207 THIS SECTION IS REPEALED BY ACT 295 OF 2000 EFFECTIVE DECEMBER 31, 2005**

484.2207 Directory assistance service; regulation of rates and quality of service.

Sec. 207. Until directory assistance service is determined by the commission to be a competitive service, the commission shall determine the manner in which all directory assistance service to the end-user is to be regulated under this act. The regulations shall include both rates, if any, and quality of service.

History: 1991, Act 179, Eff. Jan. 1, 1992;—Am. 1995, Act 216, Imd. Eff. Nov. 30, 1995;—Am. 2000, Act 295, Imd. Eff. July 17, 2000.

484.2207a Repealed. 1995, Act 216, Imd. Eff. Nov. 30, 1995.

Compiler's note: The repealed section pertained to coin-operated telephones, direct-inward dialing, and touch-tone service.

***** **484.2208 THIS SECTION IS REPEALED BY ACT 295 OF 2000 EFFECTIVE DECEMBER 31, 2005:**
See 484.2604 *****

484.2208 Existence of competitive market for regulated telecommunication service; classification as competitive service; deregulation.

Sec. 208. (1) If a competitive market for a regulated telecommunication service in which the rate is regulated exists in this state, a provider may file with the commission to classify that service for all providers within the competitive market as a competitive service.

(2) Except as provided under section 321, if a regulated service is classified as competitive, the rate for the service shall be deregulated and not subject to review under this act.

(3) A service is competitive under this section if for an identifiable class or group of customers in an exchange, group of exchanges, or other clearly defined geographical area, the service is available from more than 1 unaffiliated provider and 3 or more of the following apply:

(a) Actual competition, including facilities based competition, exists within the local exchange, group of exchanges, or geographic area.

(b) Both residential and business end-users have service alternatives available from more than 1 unaffiliated provider or service reseller.

(c) Competition and end-user usage has been demonstrated and measured by independent and reliable methods.

(d) Rates and charges for the service have changed within the previous 12-month period.

(e) There is a functionally equivalent service, reasonably available to end users from an unaffiliated provider or supplier.

(4) Except as provided under subsection (5), a service is not competitive under this section if for an identifiable class or group of customers in an exchange, group of exchanges, or other clearly defined geographical area, 1 of the providers of the service is an unaffiliated provider of facilities based basic local exchange service to less than 250,000 end-users in this state. A provider may apply to the commission for a review of the service under section 203 to determine whether the service is competitive and the rate deregulated.

(5) Subsection (4) does not apply if there are 3 or more providers of facilities based basic local exchange service throughout the competitive market and 1 or more of the providers is a provider of facilities based basic local exchange service to less than 250,000 end-users in this state.

(6) A provider shall give notice to its customers if a service is to be classified as competitive and its rate deregulated. The notice shall be included in or on the bill of each affected customer of the provider before the effective date of the classification.

(7) The service classification under this section shall take effect 45 days from the date of the notice required by subsection (4).

(8) Upon receiving a complaint filed by a provider or consumer or on its own motion, the commission may require a filing under section 203 to review a competitive classification and issue an order approving, modifying, or rejecting the classification.

MICHIGAN TELECOMMUNICATIONS ACT

(9) A provider shall not file to have a service classified as competitive until the provider has received the approval of the commission of a total service long run incremental cost study for the service to be classified.

(10) Except as otherwise provided by law, the commission or a local unit of government does not have authority over a rate for a service classified as competitive under this section.

History: 1991, Act 179, Eff. Jan. 1, 1992;—Am. 1995, Act 216, Imd. Eff. Nov. 30, 1995.

Compiler's note: In subsection (7), the reference to "subsection (4)" evidently should read "subsection (6)."

***** **484.2209 THIS SECTION IS REPEALED BY ACT 295 OF 2000 EFFECTIVE DECEMBER 31, 2005:**
See 484.2604 *****

484.2209 Awarding costs to prevailing party where frivolous position taken in proceeding; "frivolous" and "prevailing party" defined.

Sec. 209. (1) If the commission finds that a party's position in a proceeding under this act was frivolous, the commission shall award to the prevailing party the costs, including reasonable attorney fees, against the nonprevailing party and their attorney.

(2) As used in this section:

(a) "Frivolous" means that at least 1 of the following conditions is met:

(i) The party's primary purpose in initiating the proceeding or asserting the defense was to harass, embarrass, or injure the prevailing party.

(ii) The party had no reasonable basis to believe that the facts underlying that party's legal position were true.

(iii) The party's legal position was devoid of arguable legal merit.

(b) "Frivolous" does not mean a complaint filed to challenge a rate alteration increase for basic local service if the complaint has been reviewed by the commission and has not been dismissed by the commission pursuant to section 203(2).

(c) "Prevailing party" means a party who wins in the proceeding.

History: 1991, Act 179, Eff. Jan. 1, 1992.

***** **484.2210 THIS SECTION IS REPEALED BY ACT 295 OF 2000 EFFECTIVE DECEMBER 31, 2005:**
See 484.2604 *****

484.2210 Trade secrets and commercial or financial information; exemption from freedom of information act; protective order; presumption.

Sec. 210. (1) Except under the terms of a mandatory protective order, trade secrets and commercial or financial information submitted under this act are exempt from the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

(2) If information is disclosed pursuant to a mandatory protective order, then the information may be included in the commission's evidentiary record if admissible and remains confidential.

(3) There is a rebuttable presumption that cost studies, customer usage data, marketing studies, and contracts between providers are trade secrets or commercial or financial information protected under subsection (1). The burden of removing the presumption under this subsection is with the party seeking to have the information disclosed.

History: 1991, Act 179, Eff. Jan. 1, 1992;—Am. 1995, Act 216, Imd. Eff. Nov. 30, 1995.

***** **484.2211 THIS SECTION IS REPEALED BY ACT 295 OF 2000 EFFECTIVE DECEMBER 31, 2005:**
See 484.2604 *****

484.2211 Assessment.

Sec. 211. Each telecommunication provider of a regulated service in this state shall pay an assessment in an amount equal to the expenses of the commission pursuant to Act No. 299 of the Public Acts of 1972, being sections

MICHIGAN TELECOMMUNICATIONS ACT

460.111 to 460.120 of the Michigan Compiled Laws.

History: 1991, Act 179, Eff. Jan. 1, 1992.

484.2212 Repealed. 1995, Act 216, Imd. Eff. Nov. 30, 1995.

Compiler's note: The repealed section pertained to complaints, investigations, examinations, and proceedings pending as of January 1, 1992.

***** **484.2213 THIS SECTION IS REPEALED BY ACT 295 OF 2000 EFFECTIVE DECEMBER 31, 2005**

484.2213 Rules.

Sec. 213. (1) Subject to section 201, the commission may promulgate rules under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(2) Except as provided in subsection (3), effective September 1, 1996, the following administrative rules shall not apply to telecommunication providers or telecommunication services:

- (a) Electric power and communication lines: R 460.581 to R 460.592.
- (b) Intrastate telephone services and facilities: R 460.1951 to R 460.1968.
- (c) Filing procedures for communications common carriers tariffs: R 460.2051 to R 460.2057.
- (d) Consumer standards and billing practices, residential telephone service: R 460.2211 to R 460.2279.
- (e) Uniform systems of accounts for class A and class B telephone companies: R 460.9041 and R 460.9059.

(3) If the Michigan supreme court rules that sections 45 and 46 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.245 and 24.246, are unconstitutional, and a statute requiring legislative review of administrative rules is not enacted within 90 days after the Michigan supreme court ruling, the commission shall not promulgate rules under this act. Subsection (2) does not apply if the commission is prohibited from promulgating rules under this subsection.

History: 1991, Act 179, Eff. Jan. 1, 1992;—Am. 1995, Act 216, Imd. Eff. Nov. 30, 1995;—Am. 2000, Act 295, Imd. Eff. July 17, 2000.

Compiler's note: In separate opinions, the Michigan Supreme Court held that Section 45(8), (9), (10), and (12) and the second sentence of Section 46(1) ("An agency shall not file a rule ... until at least 10 days after the date of the certificate of approval by the committee or after the legislature adopts a concurrent resolution approving the rule.") of the Administrative Procedures Act of 1969, in providing for the Legislature's reservation of authority to approve or disapprove rules proposed by executive branch agencies, did not comply with the enactment and presentment requirements of Const 1963, Art 4, and violated the separation of powers provision of Const 1963, Art 3, and, therefore, were unconstitutional. These specified portions were declared to be severable with the remaining portions remaining effective. Blank v Department of Corrections, 462 Mich 103 (2000).

Administrative rules: R 484.401 et seq. of the Michigan Administrative Code.

***** **484.2214 THIS SECTION IS REPEALED BY ACT 295 OF 2000 EFFECTIVE DECEMBER 31, 2005**

484.2214 Community resource information and referral entity; designation as 2-1-1 answering point.

Sec. 214. (1) The commission shall issue orders that assign the telephone digits 2-1-1 to community resource information and referral answering points established under subsection (3) and prescribe appropriate interconnection orders to carry out the intent of this section.

(2) Each provider of basic local exchange service in this state shall assign the telephone number 2-1-1 only to a community resource information and referral answering point established under subsection (3).

(3) The commission shall designate a community resource information and referral entity to be the 2-1-1 answering point for various geographical areas within this state. In making its determination, the commission shall consider all of the following:

- (a) The recommendations of the Michigan alliance for information and referral systems.
- (b) Whether the relevant state-endorsed multipurpose collaborative bodies are in agreement.
- (c) Whether the entity has established a framework to assure the provision of coverage of the 2-1-1 telephone number 24 hours per day, 7 days per week.
- (d) Whether the entity meets 2-1-1 standards adopted by the Michigan alliance for information and referral

MICHIGAN TELECOMMUNICATIONS ACT

systems.

(4) Each community resource information and referral entity designated by the commission to be the 2-1-1 answering point for a particular geographical area within the state shall establish the framework to provide sufficient resources to operate the 2-1-1 telephone number 24 hours per day, 7 days per week.

History: Add. 2000, Act 295, Imd. Eff. July 17, 2000.

ARTICLE 2A LOCAL UNITS OF GOVERNMENT

484.2251—484.2254 Repealed. 2002, Act 48, Eff. Nov. 1, 2002.

ARTICLE 3 REGULATED TELECOMMUNICATIONS SERVICES

A. BASIC LOCAL EXCHANGE

***** **484.2301 THIS SECTION IS REPEALED BY ACT 295 OF 2000 EFFECTIVE DECEMBER 31, 2005:**
See 484.2604 *****

484.2301 License to provide or resell basic local exchange service; temporary license.

Sec. 301. (1) A telecommunication provider shall not provide or resell basic local exchange service in this state, without a license issued from the commission pursuant to this act.

(2) Pending the determination of an application for a license, the commission without notice and hearing may issue a temporary license for a period not to exceed 1 year.

History: 1991, Act 179, Eff. Jan. 1, 1992;—Am. 1995, Act 216, Imd. Eff. Nov. 30, 1995.

***** **484.2302 THIS SECTION IS REPEALED BY ACT 295 OF 2000 EFFECTIVE DECEMBER 31, 2005**

484.2302 Approval of application for license; required findings; retention of license and availability of information.

Sec. 302. (1) After notice and hearing, the commission shall approve an application for a license if the commission finds both of the following:

(a) The applicant possesses sufficient technical, financial, and managerial resources and abilities to provide basic local exchange service to all residential and commercial customers within the geographic area of the license and that the applicant intends to provide service within 1 year from the date the license is granted.

(b) The granting of a license to the applicant would not be contrary to the public interest.

(2) The commission shall retain a copy of all granted licenses and make all information contained in the licenses available to the public.

(3) Each provider granted a license shall retain a copy of the license at its principal place of business and make the license available for review to the public.

History: 1991, Act 179, Eff. Jan. 1, 1992;—Am. 2000, Act 295, Imd. Eff. July 17, 2000.

***** **484.2303 THIS SECTION IS REPEALED BY ACT 295 OF 2000 EFFECTIVE DECEMBER 31, 2005**

484.2303 Commission authority to alter or amend geographic area of license, grant competing license, or revoke license; interconnection arrangements; effect of sale or transfer of stock; addition, elimination, or modification of area code.

Sec. 303. (1) The commission may alter or amend the geographic area of a license, grant a competing license, or revoke a license of a provider if within 2 years from the date the license was granted the provider has not marketed its services to all potential customers or has refused to provide services to certain customers.

(2) A telecommunication provider shall not provide basic local exchange service to customers or end-users located within another telecommunication provider's licensed service area except through interconnection arrangements as provided by this act.

(3) The sale or transfer of shares of stock of a provider of basic local exchange service is not a sale or transfer of a license or a discontinuance of service.

(4) The commission has the authority to approve or deny a proposed addition, elimination, or modification of an area code in this state. The commission shall give public notice and shall conduct a public hearing in the affected geographic area before an addition, elimination, or modification of an area code is made in this state.

(5) To the extent that it is technically and economically feasible, the commission shall issue orders requiring the modification of all area code boundaries in this state to insure that they conform to county lines.

History: 1991, Act 179, Eff. Jan. 1, 1992;—Am. 1995, Act 216, Imd. Eff. Nov. 30, 1995;—Am. 2000, Act 295, Imd. Eff. July 17, 2000.

***** **484.2304 THIS SECTION IS REPEALED BY ACT 295 OF 2000 EFFECTIVE DECEMBER 31, 2005** *****

484.2304 Alteration of basic local exchange rates; requirements.

Sec. 304. (1) Except as provided in section 304a, the rates for basic local exchange service shall be just and reasonable.

(2) A provider may alter its rates for basic local exchange services by 1 or more of the following:

(a) Filing with the commission notice of a decrease, discount, or other rate reduction in a basic local exchange rate. A rate alteration under this subdivision shall become effective without commission review or approval.

(b) Filing with the commission notice of an increase in a basic local exchange rate that does not exceed 1% less than the consumer price index. Unless the commission determines that the rate alteration exceeds the allowed increase under this subdivision, the rate alteration shall take effect 90 days from the date of the notice required under subsection (3). As used in this subdivision, "consumer price index" means the most recent reported annual average percentage increase in the Detroit consumer price index for all items for the prior 12-month period by the United States department of labor.

(c) Filing with the commission an application to increase a basic local exchange rate in an amount greater than that allowed under subdivision (b). The application shall be accompanied with sufficient documentary support that the rate alteration is just and reasonable. The commission shall make a determination within the 90-day period provided for in subsection (5) of 1 of the following:

(i) That the rate alteration is just and reasonable.

(ii) That a filing under section 203 is necessary to review the rate alteration.

(3) Notice to customers of a rate alteration is required for a rate alteration under subsection (2)(b) or (c) and section 304a and shall be included in or on the bill of each affected customer of the provider before the effective date of the rate alteration.

(4) The notice required under subsection (3) shall contain at least all of the following information:

(a) A statement that the customer's rate may change.

(b) An estimate of the amount of the annual change for the typical residential customer that would result by the rate change.

(c) A statement that a customer may comment on or receive complete details of the rate alteration by calling or writing the commission. The statement shall also include the telephone number and address of the commission. Complete details of the rate alteration shall be provided free of charge to the customer at the expense of the provider.

(5) Except as otherwise provided in subsections (2) and (6), an altered basic local exchange rate shall take effect 90 days from the date of the notice required by subsection (3).

(6) Upon receiving a complaint or pursuant to a determination under subsection (2)(c), the commission may

MICHIGAN TELECOMMUNICATIONS ACT

require a filing under section 203 to review a proposed rate alteration under subsection (2)(c). The commission's final order may approve, modify, or reject the rate alteration.

(7) In reviewing a rate alteration under subsection (6), the commission shall consider only 1 or more of the following factors if relevant to the rate alteration as specified by the provider:

- (a) Total service long run incremental cost of basic local exchange services.
- (b) Comparison of the proposed rate to the rates charged by other providers in this state for the same service.
- (c) Whether a new function, feature, or capability is being offered as a component of basic local exchange service.
- (d) Whether there has been an increase in the costs to provide basic local exchange service in the geographic area of the proposed rate.
- (e) Whether the provider's further investment in the network infrastructure of the geographic area of the proposed rate is economically justifiable without the proposed rate.

(8) A provider shall be allowed only 1 rate increase for each class or type of service during any 12-month period.

(9) A provider shall not make a rate alteration under this section until the rate has been restructured under section 304a.

(10) The commission shall exempt a provider from this section and section 310(2) if it finds all of the following:

- (a) The provider provides basic local exchange service or basic local exchange and toll service to less than 250,000 end-users in this state.
- (b) The provider offers to end-users single-party basic local exchange service, tone dialing, toll access service, including end-user common line services and dialing parity at a total price of no higher than the amount charged as of May 1, 2000.
- (c) The provider provides dialing parity access to operator, telecommunication relay, and emergency services to all basic local exchange end-users.

(11) A call made to a local calling area adjacent to the caller's local calling area shall be considered a local call and shall be billed as a local call.

History: 1991, Act 179, Eff. Jan. 1, 1992;—Am. 1995, Act 216, Imd. Eff. Nov. 30, 1995;—Am. 2000, Act 295, Imd. Eff. July 17, 2000.

***** **484.2304a THIS SECTION IS REPEALED BY ACT 295 OF 2000 EFFECTIVE DECEMBER 31, 2005: See 484.2604** *****

484.2304a Rate restructure for basic local exchange, toll, and access services; requirements.

Sec. 304a. (1) Upon filing with and the approval of the commission, a basic local exchange provider shall restructure its rates for basic local exchange, toll, and access services to ensure that the rates are not less than the total service long run incremental cost of providing each service.

(2) The provider may determine when each rate is restructured and may phase in the rate restructuring until January 1, 2000. After January 1, 2000, the provider's rates for basic local exchange, toll, and access services shall not be less than the total service long run incremental cost for each service.

(3) The rate restructuring may include, but is not limited to, 1 or more of the following:

(a) Touchtone capability and associated charges into basic local exchange services at rate levels no greater than the sum of the current basic local exchange service rates and the touchtone service rates. Residential customers with rotary dial service may retain such service at their current rate.

(b) Within basic local exchange rates, all or part of the existing rate elements and charges for other services that are designed to recover the costs associated with the local exchange network.

(c) Restructure existing basic local exchange rates to reflect the existing variations in costs to provide basic local exchange services based upon differences in geographic areas, classes of customers, calling patterns and volumes, technology, and other factors.

(4) The commission shall have 45 days from the date of a filing under this section to review the proposed rate restructuring to ensure that the rates are not less than the total service long run incremental costs of the service, or that the rate restructuring brings rates that are below such costs closer to the costs. If the commission is unable to make a determination within the allowed 45 days under this subsection, the commission shall have an additional 45 days to review the rate restructuring.

(5) If the commission does not complete its review within the time period required under subsection (4), the rate restructuring is considered approved under this section. The basic local exchange provider may implement the

MICHIGAN TELECOMMUNICATIONS ACT

restructured rates 10 days following commission approval or the end of the period provided for commission review, whichever is earlier.

(6) Except as provided in subsection (7), for the purposes of this section and the act, providers who, together with any affiliated providers, provide basic local exchange service or basic local exchange and toll service to less than 250,000 end-users in this state may determine total service long run incremental cost through preparation of a cost study or may determine that their total service long run incremental cost is the same as that of a provider with more than 250,000 end-users.

(7) A provider of basic local exchange service with less than 15,000 end-users in this state may determine that their total service long run incremental cost is the same as that of a provider with more than 250,000 end-users.

History: Add. 1995, Act 216, Imd. Eff. Nov. 30, 1995.

******* 484.2304b THIS SECTION IS REPEALED BY ACT 295 OF 2000 EFFECTIVE DECEMBER 31, 2005: See 484.2604 *******

484.2304b Basic local exchange rate options.

Sec. 304b. (1) A provider of basic local exchange service shall develop and offer various rate plans that reflect residential customer calling patterns that shall include, but not limited to, all of the following at the option of the customer unless it is not technologically feasible:

(a) A flat rate allowing unlimited personal and domestic outgoing calls.

(b) A flat rate allowing personal and domestic outgoing calls up to 400 calls per month per line. Calls in excess of 400 per month may be charged at an incremental rate as set by the provider under section 304. If a customer has more than 1 line at the same location that appears on the customer's bill, the allowable calls under this subdivision shall be the aggregate of all the lines regardless from which line the calls originate. A person with disabilities or who is voluntarily providing a service for an organization classified by the internal revenue service as a section 501(c)(3) or (19) organization, or a congressionally chartered veterans organization or their duly authorized foundations, is exempt from the 400 calls per month limitation and shall receive a flat rate allowing unlimited calls per month. A person exempt from the call cap under this subdivision shall not be charged a rate greater than the flat rate charged other residential customers for 400 calls.

(c) A flat rate allowing personal and domestic outgoing calls of not less than 50 nor more than 150 per month, per line. Providers may offer additional plans allowing personal and domestic outgoing calls of not less than 150 per month nor more than 400 per month, per line. Calls in excess of upper per call limit per month may be charged at an incremental rate as set by the provider under section 304. If a customer has more than 1 line at the same location that appears on the customer's bill, the allowable calls under this subdivision shall be the aggregate of all the lines regardless from which line the calls originate.

(d) A rate determined by the time duration of service usage or the distance between the points of service origination and termination.

(e) A rate determined by the number of times the service is used.

(f) A rate that includes 1 or more of the rates allowed by this section.

(g) A rate that includes toll-free calling to contiguous Michigan local calling exchanges.

(2) If an option required under subsection (1) is not being offered by the provider on January 1, 1996, the provider shall set the initial rate for the option.

(3) A provider who, together with any affiliated providers, provides basic local exchange service or basic local exchange and toll service to less than 250,000 end-users in this state is not required to provide a rate plan required under subsection (1) if it is not economically feasible to provide the rate plan.

History: Add. 1995, Act 216, Imd. Eff. Nov. 30, 1995;—Am. 1998, Act 41, Imd. Eff. Mar. 18, 1998.

******* 484.2305 THIS SECTION IS REPEALED BY ACT 295 OF 2000 EFFECTIVE DECEMBER 31, 2005: See 484.2604 *******

484.2305 Provider of basic local exchange service; prohibited conduct.

Sec. 305. (1) A provider of basic local exchange service shall not do any of the following:

MICHIGAN TELECOMMUNICATIONS ACT

- (a) Discriminate against another provider by refusing or delaying access service to the local exchange.
 - (b) Refuse or delay interconnections or provide inferior connections to another provider.
 - (c) Degrade the quality of access service provided to another provider.
 - (d) Impair the speed, quality, or efficiency of lines used by another provider.
 - (e) Develop new services to take advantage of planned but not publicly known changes in the underlying network.
 - (f) Refuse or delay a request of another provider for information regarding the technical design, equipment capabilities and features, geographic coverage, and traffic patterns of the local exchange network.
 - (g) Refuse or delay access service or be unreasonable in connecting another provider to the local exchange whose product or service requires novel or specialized access service requirements.
 - (h) Upon a request, fail to fully disclose in a timely manner all available information necessary for the design of equipment that will meet the specifications of the local exchange network.
 - (i) Discriminate against any provider or any party who requests the information for commercial purposes in the dissemination of customer proprietary information. A provider shall provide without unreasonable discrimination or delay telephone directory listing information and related services to persons purchasing telephone directory listing information to the same extent and in the same quality as provided to the provider, affiliates of the provider, or any other listing information purchaser.
 - (j) Refuse or delay access service by any person to another provider.
 - (k) Sell, lease, or otherwise transfer an asset to an affiliate for an amount less than the fair market value of the asset.
 - (l) Buy, lease, or otherwise acquire an asset from an affiliate of the provider for an amount greater than the fair market value of the asset.
 - (m) Bundle unwanted services or products for sale or lease to another provider.
 - (n) Perform any act that has been prohibited by this act or an order of the commission.
 - (o) Sell services or products, extend credit, or offer other terms and conditions on more favorable terms to an affiliate of the provider than the provider offers to other providers.
 - (p) Discriminate in favor of an affiliated burglar and fire alarm service over a similar service offered by another provider.
- (2) A provider of cellular telecommunication services shall not do either of the following:
- (a) Unreasonably provide services, extend credit, or offer other terms and conditions on more favorable terms to an affiliate of the provider or to its retail department that sells to end users than the provider offers to other providers.
 - (b) Unreasonably use rates or proceeds from providers, directly or indirectly, to subsidize or offset the costs of cellular service offered by the provider, or an affiliate of the provider, to other providers or to end-users.
- (3) Until a provider has complied with section 304a, the provider of a rate regulated service shall not provide that service in combination with an unregulated service in section 401 or an unbundled or resold service under section 357 at a price that does not exceed the total service long run incremental cost of each service.

History: 1991, Act 179, Eff. Jan. 1, 1992;—Am. 1995, Act 216, Imd. Eff. Nov. 30, 1995.

***** **484.2306 THIS SECTION IS REPEALED BY ACT 295 OF 2000 EFFECTIVE DECEMBER 31, 2005:**
See 484.2604 *****

484.2306 Toll services or interconnection with toll provider.

Sec. 306. Except as provided in section 312b, a telecommunication provider of basic local exchange service is not required to provide toll services. If a telecommunication provider that provides basic local exchange service does not offer toll or have interconnection with a toll provider, the commission shall order a toll provider to interconnect with the telecommunication provider upon terms that are fair to both providers.

History: 1991, Act 179, Eff. Jan. 1, 1992;—Am. 1995, Act 216, Imd. Eff. Nov. 30, 1995.

***** **484.2307 THIS SECTION IS REPEALED BY ACT 295 OF 2000 EFFECTIVE DECEMBER 31, 2005:**
See 484.2604 *****

484.2307 Educational institutions generally.

Sec. 307. (1) Educational institutions shall have the authority to own, construct, and operate a telecommunication system or to purchase telecommunication services or facilities from an entity capable of providing the service or facility.

(2) Educational institutions that provide telecommunication services offered in subsection (3) shall not be subject to regulation under this act or by any other governmental unit.

(3) Except as provided in subsection (6), educational institutions may only sell telecommunication services required for, or useful in, the instruction and training, including worker training, of students and other people utilizing the institution's educational services, the conducting of research, or the operation of the institution. The services shall not be considered basic local exchange services as long as they are used for the instruction and training of students and other people utilizing the institution's education services, the conducting of research, or the operation of the institution. Educational institutions may initiate and maintain cooperative arrangements with telecommunication providers without the institutions being subject to this act.

(4) Upon the request of an educational institution, telecommunication providers may provide to an educational institution services for the transmission of interactive data, voice and video communications between the institution's facilities or to the homes of students or employees of the institution, regardless of whether the exchanges are in the same or different LATAs.

(5) The rates for services provided to an educational institution by a provider under this section shall be determined by an open bid process.

(6) Except for a state institution of higher education, if an educational institution has excess capacity, it may sell the excess capacity subject to subsection (3) and to both of the following:

- (a) The amount of capacity sold shall not exceed 25% of the institution's total capacity.
- (b) The capacity shall not be sold below the total service long run incremental cost of the provider of basic local exchange service in the service area of the educational institution. If there is more than 1 provider in the service area, the educational institution shall use the lowest total service long run incremental cost.

History: 1991, Act 179, Eff. Jan. 1, 1992;—Am. 1995, Act 216, Imd. Eff. Nov. 30, 1995.

484.2307a Repealed. 1995, Act 216, Imd. Eff. Nov. 30, 1995.

Compiler's note: The repealed section pertained to educational institutions services for transmission of interactive data and video communications.

***** **484.2308 THIS SECTION IS REPEALED BY ACT 295 OF 2000 EFFECTIVE DECEMBER 31, 2005:**
See 484.2604 *****

484.2308 Basic local exchange or access rates; proceeds from sale, lease, or transfer of rate acquired assets; use; notification; review.

Sec. 308. (1) Basic local exchange or access rates or proceeds from the sale, lease, or transfer of rate acquired assets shall not be used, directly or indirectly, to subsidize or offset the costs of other products or services offered by the provider or an affiliate of the provider by providing such other products or services at less than the total service long-run incremental cost.

(2) A provider of basic local exchange service shall not sell or transfer capital assets used to provide the service for an amount less than the fair market value to any other provider or affiliated entity for the purpose of providing an unregulated service.

(3) A provider of basic local exchange service shall notify the commission when it transfers, in whole or in part, substantial assets, functions or employees associated with basic local exchange service to an affiliated entity, indicating the identity of the affiliated entity, description of the transaction and the impact on basic local exchange service.

(4) In an investigation under this section or under section 203, the commission shall have the authority to review the books and accounts of both the provider and affiliated entities of the provider.

History: 1991, Act 179, Eff. Jan. 1, 1992;—Am. 1995, Act 216, Imd. Eff. Nov. 30, 1995.

***** **484.2309 THIS SECTION IS REPEALED BY ACT 295 OF 2000 EFFECTIVE DECEMBER 31, 2005:**

*See 484.2604 ******

484.2309 Local directory assistance; annual printed telephone directory; interzone service; 900 prefix services.

Sec. 309. (1) A provider of basic local exchange service shall provide to each customer local directory assistance and, at no additional charge to the customer, an annual printed telephone directory.

(2) A provider of interzone service, as defined in tariffs on file with the commission on December 31, 1991, shall continue to provide the service pursuant to the terms of the tariffs. A provider may alter interzone service rates pursuant to provisions of section 304.

(3) A provider of basic local exchange service shall provide each customer at no additional charge the option of having access to 900 prefix services blocked through the customer's exchange service.

History: 1991, Act 179, Eff. Jan. 1, 1992.

****** 484.2309a THIS SECTION IS REPEALED BY ACT 295 OF 2000 EFFECTIVE DECEMBER 31, 2005: See 484.2604 ******

484.2309a Cable service.

Sec. 309a. (1) A provider of telecommunication service, including, basic local exchange service, may provide cable service if the provider has received a franchise agreement from the local unit of government to provide cable service.

(2) If a new provider of cable service seeks to offer the service in an area that has an incumbent provider of cable service operating under a franchise agreement, in negotiating a franchise agreement during the term of a franchise agreement entered into prior to July 1, 1995, the local government unit may consider terms and conditions of the franchise agreement of the incumbent provider, existing cable franchise fees, development of new services, the state of technology, and other factors.

History: 1991, Act 179, Eff. Jan. 1, 1992;—Am. 1995, Act 216, Imd. Eff. Nov. 30, 1995.

****** 484.2309b THIS SECTION IS REPEALED BY ACT 295 OF 2000 EFFECTIVE DECEMBER 31, 2005: See 484.2604 ******

484.2309b Provider of inter-LATA toll service; prohibited conduct.

Sec. 309b. A provider of inter-LATA toll service in Michigan shall take no action prohibited under state or federal labor laws to discourage or prevent its employees from seeking union representation, pursuing collective bargaining or engaging in any other activities protected, including, but not limited to, the closing of an office or facility in Michigan to prevent organizing.

History: Add. 1995, Act 216, Imd. Eff. Nov. 30, 1995.

B. TOLL ACCESS SERVICE

****** 484.2310 THIS SECTION IS REPEALED BY ACT 295 OF 2000 EFFECTIVE DECEMBER 31, 2005 ******

484.2310 Rates for toll access services; exception.

Sec. 310. (1) Except as provided by this act, the commission shall not review or set the rates for toll access services.

(2) Except as otherwise provided under subsection (7), a provider of toll access services shall set the rates for toll

MICHIGAN TELECOMMUNICATIONS ACT

access services. Access service rates and charges set by a provider that exceed the rates allowed for the same interstate services by the federal government are not just and reasonable. In no event may end-user or subscriber line charges exceed the rates allowed for the same interstate services by the federal government as of May 1, 2000. Providers may agree to a rate that is less than the rate allowed by the federal government. If the providers cannot agree on a rate, a provider may apply to the commission under section 204.

(3) Two or more providers that each have less than 250,000 access lines may agree to joint toll access service rates and pooling of intrastate toll access service revenues.

(4) A provider of toll access services shall make available for intrastate access services any technical interconnection arrangements, including colocation required by the federal government for the identical interstate access services.

(5) A provider of toll access service, whether under tariff or contract, shall offer the services under the same rates, terms and conditions, without unreasonable discrimination, to all providers. All pricing of special toll access services and switched access services, including volume discounts, shall be offered to all providers under the same rates, terms, and conditions. Until allowed by the federal communications commission, volume discounts on switched access are prohibited under this subsection.

(6) If a toll access service rate is reduced, then the provider receiving the reduced rate shall reduce its rate to its customers by an equal amount. The commission shall investigate and ensure that the provider has complied with this subsection.

(7) A provider of basic local exchange service shall not assess or impose on end-users an intrastate subscriber line charge or end-user line charge.

(8) This section shall not apply to basic local exchange providers that have 250,000 or fewer customers in this state.

History: 1991, Act 179, Eff. Jan. 1, 1992;—Am. 1995, Act 216, Imd. Eff. Nov. 30, 1995;—Am. 2000, Act 295, Imd. Eff. July 17, 2000.

***** **484.2311 THIS SECTION IS REPEALED BY ACT 295 OF 2000 EFFECTIVE DECEMBER 31, 2005:**
See 484.2604 *****

484.2311 Special toll access or switched access; prices; availability for resale.

Sec. 311. (1) A telecommunication provider of both basic local exchange service and toll service shall impute as provided under section 362 to itself its prices of special toll access service and switched access for the use of essential facilities it uses in the provision of toll, WATS, or other service for which toll access service is a component.

(2) All other providers of intrastate special toll access service, switched toll access services, toll, or WATS shall impute to themselves in the aggregate on a service by service basis their individual cost of special or switched toll access service or its equivalent in their pricing.

(3) Telecommunication services that utilize special or switched toll access service shall be made available for resale by the telecommunication provider offering the service.

History: 1991, Act 179, Eff. Jan. 1, 1992;—Am. 1995, Act 216, Imd. Eff. Nov. 30, 1995.

C. TOLL SERVICE

***** **484.2312 THIS SECTION IS REPEALED BY ACT 295 OF 2000 EFFECTIVE DECEMBER 31, 2005**

484.2312 Rates for toll services; availability of service; adjacent exchange toll calling plans; mandatory minimum monthly or flat-rate charge.

Sec. 312. (1) Except as provided by this act, the commission shall not review or set the rates for toll service.

(2) A provider of toll service may charge the same rate for the service on its routes of similar distance.

(3) The commission shall require that toll service is universally available to all persons within the state.

MICHIGAN TELECOMMUNICATIONS ACT

(4) Upon commission review and approval, all providers of toll service shall make available to their customers adjacent exchange toll calling plans. All providers of toll service shall inform their customers of the available plans. The plans shall remain in effect under this act until altered by order of the commission. A provider of toll service shall implement an optional discount plan for calling to exchanges within 20 miles of a customer's home exchange. The plan shall not violate the conditions delineated in the commission's order in case number U-9153, dated September 26, 1989.

(5) Except as otherwise approved by the commission, a provider shall not charge a mandatory minimum monthly or mandatory flat-rate charge for toll calls except in connection with an optional discount toll calling plan.

History: 1991, Act 179, Eff. Jan. 1, 1992;—Am. 1995, Act 216, Imd. Eff. Nov. 30, 1995;—Am. 2000, Act 295, Imd. Eff. July 17, 2000.

***** **484.2312a THIS SECTION IS REPEALED BY ACT 295 OF 2000 EFFECTIVE DECEMBER 31, 2005: See 484.2604** *****

484.2312a Provider of basic local exchange service; 1+intra-LATA toll dialing parity.

Sec. 312a. Effective January 1, 1996, if a waiver to the inter-LATA prohibitions has been granted for a specific service area and the service area has 2 or more providers of local exchange service, the provider of basic local exchange service shall provide 1+intra-LATA toll dialing parity within the service area that is subject to the waiver.

History: Add. 1995, Act 216, Imd. Eff. Nov. 30, 1995.

484.2312b Repealed. 1995, Act 216, Eff. July 1, 1997.

Compiler's note: The repealed section pertained to 1+ intra-LATA toll dialing parity.

D. DISCONTINUANCE OF SERVICES

***** **484.2313 THIS SECTION IS REPEALED BY ACT 295 OF 2000 EFFECTIVE DECEMBER 31, 2005: See 484.2604** *****

484.2313 Discontinuance of service.

Sec. 313. (1) A telecommunication provider that provides either basic local exchange or toll service, or both, may not discontinue either service to an exchange unless 1 or more alternative telecommunication providers are furnishing the same telecommunication service to the customers in the exchange.

(2) A telecommunication provider proposing to discontinue a regulated service to an exchange shall file a notice of the discontinuance of service with the commission, publish the notice in a newspaper of general circulation within the exchange, and provide other reasonable notice as required by the commission.

(3) Within 30 days after the date of publication of the notice required by subsection (2), a person or other telecommunication provider affected by a discontinuance of services by a telecommunication provider may apply to the commission to determine if the discontinuance of service is authorized pursuant to this act.

History: 1991, Act 179, Eff. Jan. 1, 1992.

***** **484.2314 THIS SECTION IS REPEALED BY ACT 295 OF 2000 EFFECTIVE DECEMBER 31, 2005: See 484.2604** *****

484.2314 Discontinuance of regulated service for failure to pay rate or charge for unregulated service prohibited; determination of conditions for discontinuance under section.

Sec. 314. (1) A provider of a regulated service shall not discontinue the regulated service for failure by a customer to pay a rate or charge imposed for an unregulated service. For the purposes of this section, the commission may determine how payments are allocated between regulated and unregulated services.

MICHIGAN TELECOMMUNICATIONS ACT

(2) The commission shall determine when and under what conditions a provider of basic local exchange service may discontinue service under this section.

History: 1991, Act 179, Eff. Jan. 1, 1992.

***** **484.2314a THIS SECTION IS REPEALED BY ACT 295 OF 2000 EFFECTIVE DECEMBER 31, 2005**

484.2314a Customer on active duty in military; shut-off protection.

Sec. 314a. (1) Except as otherwise provided by this section, a telecommunication provider shall not discontinue basic local exchange telecommunication service to the residence of a qualifying customer who has made a filing under this section.

(2) A qualifying customer may apply for shut-off protection for telecommunication service under this section by notifying the provider that the qualifying customer is in need of assistance caused by a reduction in household income through a call to active duty status in the military.

(3) A provider of service may request verification of the call to active duty status from the qualifying customer. A provider of service may also request verification of the qualified customer's reduction in household income.

(4) A provider of service may require restrictions or elimination of calling features or toll service as a condition of granting a qualifying customer's request for shut-off protection under this section.

(5) A qualifying customer may receive shut-off protection from the provider of service under this section for up to 90 days. Upon application to the provider, the provider may grant the qualifying customer 1 or more extensions.

(6) A qualifying customer receiving assistance under this section shall notify the provider of the end of the call to active duty status as soon as that status is known.

(7) Unless waived by the provider, the shut-off protection provided under this section does not void or limit the obligation of the qualifying customer to pay for telecommunication services received during the time of assistance.

(8) Within 48 hours of receiving all information requested of the qualifying customer, a provider shall do all of the following:

(a) Create a repayment plan requiring minimum monthly payments that allows the qualifying customer to pay any past due amounts over a reasonable time period not to exceed 1 year.

(b) Provide a qualifying customer with information regarding any governmental, provider, or other assistance programs.

(9) This section does not affect or amend any commission rules or orders pertaining to billing standards. If the terms and conditions arranged by the provider with the qualifying customer under subsection (8) are not followed by the customer, then the provider shall follow procedures as set forth in the commission's billing standards for basic residential telecommunication service.

(10) As used in this section, "qualifying customer" means all of the following:

(a) A residential household where the income is reduced because the customer of record, or the spouse of the customer of record, is called to active military service by the president of the United States or the governor of this state during a time of declared national or state emergency or war.

(b) Assistance is needed by the residential household to maintain telecommunication service.

(c) The residential household notifies the provider of the need for assistance and provides verification of the call to active duty status.

History: Add. 2003, Act 206, Imd. Eff. Nov. 26, 2003.

E. SERVICES FOR THE HEARING IMPAIRED

***** **484.2315 THIS SECTION IS REPEALED BY ACT 295 OF 2000 EFFECTIVE DECEMBER 31, 2005:**
See 484.2604 *****

484.2315 Text telephone-telecommunications device for the deaf; relay service; advisory board;

MICHIGAN TELECOMMUNICATIONS ACT

rates; discounts; recovery of costs.

Sec. 315. (1) The commission shall require each provider of basic local exchange service to provide a text telephone-telecommunications device for the deaf at costs to each individual who is certified as deaf or severely hearing- or speech-impaired by a licensed physician, audiologist, or qualified state agency, and to each public safety answering point as defined in section 102 of the emergency telephone service enabling act, Act No. 32 of the Public Acts of 1986, being section 484.1102 of the Michigan Compiled Laws.

(2) The commission shall require each provider of basic local exchange service to provide a telecommunication relay service whereby persons using a text telephone-telecommunications device for the deaf can communicate with persons using a voice telephone through the use of third party intervention or automated translation. Each provider of basic local exchange service shall determine whether to provide a telecommunication relay service on its own, jointly with other basic local exchange providers, or by contract with other telecommunication providers. The commission shall determine the technical standards and essential features of text telephone and telecommunication relay service to ensure their compatibility and reliability.

(3) The commission shall appoint a 3-person advisory board consisting of a representative of the deaf community, the commission staff, and providers of basic local exchange service to assist in administering this section. The advisory board shall hold meetings, open to the public, at least once each 3 months, shall periodically seek input on the administration of this section from members of the deaf, hearing, or speech impaired community, and shall report to the commission at least annually. The advisory board shall investigate and make recommendations on the feasibility of hiring a reasonably prudent number of people from the deaf or hearing impaired and speech impaired community to work in the provision of telecommunication relay service.

(4) Rates and charges for calls placed through a telecommunication relay service shall not exceed the rates and charges for calls placed directly from the same originating location to the same terminating location. Unless ordered by the commission, a provider of a telecommunications relay service shall not be required to handle calls from public telephones except for calls charged collect, cash, to a credit card, or third party number.

(5) Notwithstanding any other provision of this act, a provider may offer discounts on toll calls where a text telephone-telecommunications device for the deaf is used. The commission shall not prohibit such discounts on toll calls placed through a telecommunication relay service.

(6) The commission shall establish a rate for each subscriber line of a provider to allow the provider to recover costs incurred under this section and may waive the costs assessed under this section to individuals who are deaf or severely hearing impaired or speech impaired.

History: 1991, Act 179, Eff. Jan. 1, 1992.

F. LIFELINE SERVICES

******* 484.2316 THIS SECTION IS REPEALED BY ACT 295 OF 2000 EFFECTIVE DECEMBER 31, 2005:
See 484.2604 *******

484.2316 Rates for low income residential customers; reduction; notification of lifeline services.

Sec. 316. (1) The commission shall require each provider of residential basic local exchange service to offer certain low income customers the availability of basic local exchange service and access service at reduced rates as described in subsections (2) and (3).

(2) Except as provided under subsections (3) and (4), the rate reductions for low income customers shall be at a minimum, 20% of the basic local exchange rate or \$8.25, which shall be inclusive of any federal contribution, whichever is greater.

(3) If the low income customer is 65 years of age or more, the rate reduction shall be at a minimum, 25% of the basic local exchange rate or \$8.25, which shall be inclusive of any federal contribution, whichever is greater.

(4) The total reduction under subsection (2) or (3) shall not exceed 100% of all end-user common line charges and the basic local exchange rate.

(5) To qualify for the reduced rate under this section, the person's annual income shall not exceed 150% of the federal poverty income standards as determined by the United States office of management and budget and as approved by the state treasurer.

MICHIGAN TELECOMMUNICATIONS ACT

(6) The commission shall establish a rate for each subscriber line of a provider to allow the provider to recover costs incurred under this section.

(7) The commission shall take necessary action to notify the general public of the availability of lifeline services including, but not limited to, public service announcements, newspaper notices, and such other notice reasonably calculated to reach those who may benefit from the services.

History: 1991, Act 179, Eff. Jan. 1, 1992;—Am. 1995, Act 216, Imd. Eff. Nov. 30, 1995;—Am. 1997, Act 183, Imd. Eff. Dec. 30, 1997;—Am. 1999, Act 31, Imd. Eff. May 28, 1999.

***** **484.2316a THIS SECTION IS REPEALED BY ACT 295 OF 2000 EFFECTIVE DECEMBER 31, 2005** *****

484.2316a Definitions; creation of intrastate universal service fund; provision of supported telecommunication services.

Sec. 316a. (1) As used in this section:

(a) "Affordable rates" means, at a minimum, rates in effect on January 1, 2001 or as determined by the commission.

(b) "Intrastate universal service fund" means a fund created by the commission to provide a subsidy to customers for the provision of supported telecommunication services provided by any telecommunication carrier.

(c) "Supported telecommunication services" means primary residential access lines and a minimum level of local usage on those lines, as determined by the commission.

(d) "Universal service" shall mean the provision of supported telecommunication services by any carrier.

(2) No sooner than July 1, 2002, the commission shall initiate an investigation to determine whether an intrastate universal service fund should be created. The commission shall complete the investigation no sooner than December 1, 2002. All providers shall be made respondents in the proceeding and any other interested party may participate and intervene in the proceeding.

(3) The commission shall determine for each provider whether and to what extent the affordable rate level to provide supported telecommunication services is below each provider's forward looking economic cost of the supported telecommunication services.

(4) If a fund is created under this section, to the extent providers provide supported telecommunication services at an affordable rate that is below the forward looking economic cost of the supported telecommunication services, the fund shall provide a subsidy for customers in an amount which is equal to the difference between the affordable rate as determined by the commission and the forward looking economic cost of the supported services, less any federal universal service support received for those supported services.

(5) Eligibility for customers to receive intrastate universal service support under subsection (4) shall be consistent with the eligibility guidelines of section 254(e) of the telecommunications act of 1996 and the rules and regulations of the federal communications commission. The state fund shall be administered by an independent third-party administrator selected by the commission.

(6) To the extent an intrastate universal service fund is established, the commission shall require that the costs of the fund be recovered from all telecommunication providers on a competitively neutral basis. Providers contributing to the intrastate universal service fund may recover from end-users the costs of the financial support through surcharges assessed on end-users' bills.

(7) Upon request or on its own motion, the commission, after notice and hearing, shall determine if, based upon changes in technology or other factors, the findings made under this section should be reviewed.

(8) This section does not apply if an interstate universal service fund exists on the federal level unless otherwise approved by the commission.

History: Add. 2000, Act 295, Imd. Eff. July 17, 2000.

G. OPERATOR SERVICE PROVIDERS

***** **484.2317 THIS SECTION IS REPEALED BY ACT 295 OF 2000 EFFECTIVE DECEMBER 31, 2005:**

*See 484.2604 ******

484.2317 Operator service providers; requirements; registration; fee; rate limitation; failure to pay charge; violation of section.

Sec. 317. (1) The commission shall adopt operating requirements for operator service providers. The requirements shall include the following:

(a) That an OSP shall furnish each entity with which the OSP contracts to provide operator service a sticker, card, or other form of information for each telephone that has access to the operator service. The information shall include the name of the operator service provider, a toll-free customer service telephone number, and a statement that charges imposed by the operator service provider may be obtained by calling the toll-free telephone number. The operator service provider shall require by contract that the entity receiving the information display the information on or near each of the telephones that has access to the service.

(b) Prior to the connection of each call, the operator service provider shall do all of the following:

(i) Announce the operator service provider's name.

(ii) Quote, at the caller's request and without charge, the rate and any other fees or surcharges applicable to the call charged by the operator service provider.

(c) Allow a caller to choose the carrier of his or her choice by doing either of the following:

(i) After informing the caller that the rates for the call may not reflect the rates for a call from the location of the caller and receiving the caller's consent, transfer the caller to the carrier of his or her choice without charge.

(ii) Instruct the caller how to reach his or her carrier of choice by dialing the carrier's 950, 1-800, or 10-XXX access service method.

(d) Allow callers to the operator service provider to reach emergency services without charge.

(2) An operator service provider shall not provide operator services in this state without first registering with the commission. The registration shall include the following information:

(a) The name of the provider.

(b) The address of the provider's principal office.

(c) If the provider is not located in this state, the address of the registered office and the name of the registered agent authorized to receive service of process in this state.

(d) Any other information that the commission may require.

(3) The registration shall be accompanied with a registration fee of \$100.00.

(4) The registration is effective immediately upon filing with the commission and the payment of the registration fee and shall remain in effect for 1 year from its effective date.

(5) A registration may be renewed for 1 year by filing with the commission a renewal registration on a form provided by the commission and the payment of a renewal fee of \$100.00.

(6) Except as otherwise authorized by the commission, a provider under this section shall not charge a rate for operator services or toll service that is greater than 300% of the state average rate for operator or toll service by providers of regulated toll service.

(7) A provider shall not discontinue basic local exchange service for failure by a person to pay an OSP charge.

(8) In addition to any other penalty under this act, a person who is charged for the use of an operator service provider or is denied access to emergency services in violation of this section may bring a civil action against the OSP to recover actual damages or \$250.00, whichever is greater, plus all reasonable attorney fees.

History: Add. 1995, Act 216, Imd. Eff. Nov. 30, 1995.

H. PAYPHONE SERVICES

******* 484.2318 THIS SECTION IS REPEALED BY ACT 295 OF 2000 EFFECTIVE DECEMBER 31, 2005:**
*See 484.2604 ******

484.2318 Payphone service; discrimination prohibited; compliance with nonstructural safeguards.

MICHIGAN TELECOMMUNICATIONS ACT

Sec. 318. (1) A provider of basic local exchange service shall not discriminate in favor of its or an affiliate's payphone service over similar services offered by another provider.

(2) A provider of payphone service shall comply with all nonstructural safeguards adopted by the federal communications commission for payphone service.

History: Add. 1995, Act 216, Imd. Eff. Nov. 30, 1995.

******* 484.2319 THIS SECTION IS REPEALED BY ACT 295 OF 2000 EFFECTIVE DECEMBER 31, 2005:
See 484.2604 *******

484.2319 Provider of payphone service; rate of compensation.

Sec. 319. (1) The commission shall determine the rate that a provider of toll service is to compensate a provider of payphone service for calls made on a payphone of the provider that utilizes the toll service and avoids customer direct compensation to the provider of the payphone service.

(2) The rate of compensation determined under subsection (1) shall be based on a per-call basis and shall be at the total service long run incremental cost of providing the payphone service.

(3) Until a determination can be made under subsection (1), the toll service provider shall compensate the provider of the payphone service on a per-call basis at a rate of 25 cents for each call.

(4) A provider of payphone service with less than 10,000 payphones may determine total service long run incremental cost through preparation of a cost study or may determine that their total service long run incremental cost is the same as that of a provider with more than 10,000 payphones.

(5) A provider of payphone service shall not receive compensation under this section unless the provider has registered under section 320.

History: Add. 1995, Act 216, Imd. Eff. Nov. 30, 1995.

******* 484.2320 THIS SECTION IS REPEALED BY ACT 295 OF 2000 EFFECTIVE DECEMBER 31, 2005:
See 484.2604 *******

484.2320 Payphone service; registration required; report of inoperative payphone; notification; rules or orders; regulation of service by local unit of government.

Sec. 320. (1) A person shall not provide payphone service in this state without first registering with the commission. The registration shall include all of the following information:

(a) The name of the provider.

(b) The address and telephone number of the provider's principal office.

(c) If the provider is not located in this state, the address and telephone number of the registered office and the name and telephone number of the registered agent authorized to receive service of process in this state.

(d) The specific location of each payphone in this state owned or operated by the provider. Information required under this subdivision shall be made available to the local unit of government solely for the enforcement of the reporting, repairing, and replacement standards under subsection (8). The information required to be provided under this subsection shall be considered commercial information under section 210, and the information submitted shall be exempt from the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

(2) The registration shall be accompanied by a registration fee of \$100.00.

(3) The registration is effective immediately upon filing with the commission and the payment of the registration fee and shall remain in effect for 1 year from its effective date.

(4) A registration may be renewed for 1 year by filing with the commission a renewal registration on a form provided by the commission and the payment of a renewal fee of \$100.00.

(5) The commission shall establish a toll-free number that can be dialed to report to the commission a payphone that is inoperative. The toll-free number shall be conspicuously displayed by the provider on or near each payphone.

(6) If the commission receives a report pursuant to subsection (5), it shall immediately notify the provider of the inoperative payphone.

(7) After consulting with providers of payphone service, local units of government, and other interested parties,

MICHIGAN TELECOMMUNICATIONS ACT

the commission shall promulgate rules or issue orders under section 213 to establish and enforce quality standards in the providing of payphone service.

(8) Except as provided in subsection (9), a local unit of government shall not regulate payphone service.

(9) A local unit of government may enforce the reporting, repairing, and replacement of inoperative payphones within its jurisdiction by adopting an ordinance that conforms to the standards established by the commission under subsection (7). A local unit of government shall not impose standards greater than these established by the commission.

History: Add. 1995, Act 216, Imd. Eff. Nov. 30, 1995.

I. REGULATED RATES

***** **484.2321 THIS SECTION IS REPEALED BY ACT 295 OF 2000 EFFECTIVE DECEMBER 31, 2005:**
See 484.2604 *****

484.2321 Provider of regulated telecommunication service; limitation on rate charge.

Sec. 321. Except as otherwise provided under section 304a, a provider of a regulated telecommunication service shall not charge a rate for the service that is less than the total service long run incremental cost of providing the service.

History: Add. 1995, Act 216, Imd. Eff. Nov. 30, 1995.

***** **484.2322 THIS SECTION IS REPEALED BY ACT 295 OF 2000 EFFECTIVE DECEMBER 31, 2005**

484.2322 Definitions; access to broadband internet access transport services; report.

Sec. 322. (1) As used in this section:

(a) "Affiliate" means a person who, directly or indirectly, owns or controls, is owned or controlled by, or is under common ownership or control with, another person. The term "own" means to own an equity or other financial interest of more than 10% or any management interest.

(b) "Broadband" means of a capability in excess of 144 kilobits per second.

(c) "Broadband internet access transport services" means the broadband transmission of data between a user and his or her internet service provider's point of interconnection with the broadband internet access transport provider's facilities.

(d) "Internet" means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, that comprise the interconnected worldwide network of networks that employ the transmission control protocol/internet protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire or radio.

(e) "Internet service provider" means a person who provides a service that enables users to access content, information, electronic mail, or other services offered over the internet.

(f) "Wireline broadband internet access transport provider" means a person who provides broadband internet access transport services, by aid of wire, cable, or other like connection, over facilities owned by it or under its control for a fee directly or indirectly to the public. The term also includes an internet service provider who self-provides, over facilities owned by it or under its control, the wireline broadband transport of its services between itself and its users.

(2) The commission shall study whether the state should require each wireline broadband internet access transport provider who is, or is an affiliate of, an internet service provider to provide any other requesting internet service provider access to its broadband internet access transport services, unbundled from the provision of content, on rates, terms, and conditions that are at least as favorable as those on which it provides the access to itself, to its affiliate, or to any other person.

(3) The commission shall report to the legislature and the governor no later than July 1, 2001 on its findings

under this section.

History: Add. 2000, Act 295, Imd. Eff. July 17, 2000.

ARTICLE 3A
INTERCONNECTION OF TELECOMMUNICATION PROVIDERS WITH THE BASIC
LOCAL EXCHANGE SERVICE

***** **484.2351 THIS SECTION IS REPEALED BY ACT 295 OF 2000 EFFECTIVE DECEMBER 31, 2005:**
See 484.2604 *****

484.2351 Providers of basic local exchange service or basic local exchange and toll service; applicability of article.

Sec. 351. Until January 1, 2000 and except for section 361, this article does not apply to providers who, together with any affiliated providers, provide basic local exchange service or basic local exchange and toll service to less than 250,000 end-users in this state on January 1, 1996.

History: Add. 1995, Act 216, Imd. Eff. Nov. 30, 1995.

***** **484.2352 THIS SECTION IS REPEALED BY ACT 295 OF 2000 EFFECTIVE DECEMBER 31, 2005:**
See 484.2604 *****

484.2352 Rates for basic local exchange service for interconnection; rates for unbundled loops, number portability, and termination of local traffic.

Sec. 352. (1) Until January 1, 1997, the rates of a provider of basic local exchange service for interconnection under this article shall be at the provider's total service long run incremental cost of providing the service. After January 1, 1997, the rate for interconnection shall be just and reasonable as determined by the commission.

(2) The rates for unbundled loops, number portability, and the termination of local traffic shall be the rates established under commission case U-10647 and shall remain in effect until new total service long run incremental cost studies for such services have been approved by the commission.

History: Add. 1995, Act 216, Imd. Eff. Nov. 30, 1995.

***** **484.2353 THIS SECTION IS REPEALED BY ACT 295 OF 2000 EFFECTIVE DECEMBER 31, 2005:**
See 484.2604 *****

484.2353 Report and recommendations.

Sec. 353. The commission shall issue a report and make recommendations to the legislature and the governor on or before January 1, 1998 involving the issues, scope, terms, and conditions of interconnection of telecommunication providers with the basic local exchange service.

History: Add. 1995, Act 216, Imd. Eff. Nov. 30, 1995.

A. JOINT MARKETING

***** **484.2354 THIS SECTION IS REPEALED BY ACT 295 OF 2000 EFFECTIVE DECEMBER 31, 2005:**
See 484.2604 *****

484.2354 Provider of basic local exchange service; prohibited conduct; applicability of subsection (1)(a).

Sec. 354. (1) Except as otherwise provided in subsection (2), until inter-LATA prohibitions are removed for providers of basic local exchange service, a provider of basic local exchange service shall not do any of the following:

(a) Jointly market or offer as a package a basic local exchange service together with an inter-LATA toll service or condition a rate for basic local exchange service on the customer also ordering an inter-LATA toll service.

(b) Discriminate against providers of toll service by not making available customer names and addresses that are available to an affiliate of the basic local exchange provider.

(2) Subsection (1)(a) does not apply to a Michigan facility based provider or to the extent that a provider is providing 1+intra-LATA toll dialing parity under section 312b.

History: Add. 1995, Act 216, Imd. Eff. Nov. 30, 1995.

B. SERVICE UNBUNDLING

***** **484.2355 THIS SECTION IS REPEALED BY ACT 295 OF 2000 EFFECTIVE DECEMBER 31, 2005:**
See 484.2604 *****

484.2355 Service unbundling and separate pricing.

Sec. 355. (1) On or before January 1, 1996, a provider of basic local exchange service shall unbundle and separately price each basic local exchange service offered by the provider into the loop and port components and allow other providers to purchase such services on a nondiscriminatory basis.

(2) Unbundled services and points of interconnection shall include at a minimum the loop and the switch port.

History: Add. 1995, Act 216, Imd. Eff. Nov. 30, 1995.

***** **484.2356 THIS SECTION IS REPEALED BY ACT 295 OF 2000 EFFECTIVE DECEMBER 31, 2005:**
See 484.2604 *****

484.2356 Co-location with other providers.

Sec. 356. A provider of local exchange service shall allow and provide for virtual co-location with other providers at or near the central office of the provider of local exchange service of transmission equipment that the provider has exclusive physical control over and is necessary for efficient interconnection of the unbundled services. Providers may enter into an agreement that allows for interconnection on other terms and conditions than provided under this subsection.

History: Add. 1995, Act 216, Imd. Eff. Nov. 30, 1995.

C. RESALE OF LOCAL EXCHANGE SERVICE

***** **484.2357 THIS SECTION IS REPEALED BY ACT 295 OF 2000 EFFECTIVE DECEMBER 31, 2005:**
See 484.2604 *****

484.2357 Basic local exchange services; availability for resale.

Sec. 357. (1) A provider of local exchange service shall make available for resale on nondiscriminatory terms and conditions all basic local exchange services that on January 1, 1996 it is offering to its retail customers. Resale shall be provided on a wholesale basis.

MICHIGAN TELECOMMUNICATIONS ACT

(2) Except for restrictions on resale, a provider of local exchange service may include in its wholesale tariffs any use or class of customer restrictions it includes in its retail tariffs.

(3) A provider of local exchange service is not required to offer for resale either of the following:

(a) A package of services where basic local exchange service is jointly marketed or combined with other services, or for any promotional or discounted offering of basic local exchange service.

(b) Services for which the provider does not have existing facilities in place to serve the intended end user, or any service offered for the first time subsequent to March 1, 1996.

(4) No later than January 1, 1996, each provider of local exchange service shall file tariffs with the commission which set forth the wholesale rates, terms, and conditions for basic local exchange services. The wholesale rates shall be set at levels no greater than the provider's current retail rates less the provider's avoided costs.

(5) After January 1, 2000, wholesale rates shall not be less than the provider's total service long run incremental cost of the services.

History: Add. 1995, Act 216, Imd. Eff. Nov. 30, 1995.

D. NUMBER PORTABILITY

***** **484.2358 THIS SECTION IS REPEALED BY ACT 295 OF 2000 EFFECTIVE DECEMBER 31, 2005:**
See 484.2604 *****

484.2358 "Number portability" defined; order to provide service; availability of direct inward dialing and remote call forwarding.

Sec. 358. (1) As used in this section, "number portability" means the capability for a local exchange customer at a particular location to change providers of basic local exchange service without any change in the local exchange customer's telephone number, while preserving the full range of functionality that the customer could obtain by changing telephone numbers.

(2) No later than January 1, 1999, a provider of basic local exchange service shall provide number portability.

(3) If the commission determines that it is economically and technologically feasible to provide number portability before the date required under subsection (2), the commission shall order providers of basic local exchange service to provide the service before that date.

(4) Until number portability is available, a provider of basic local exchange service shall make available to other providers direct inward dialing and remote call forwarding.

History: Add. 1995, Act 216, Imd. Eff. Nov. 30, 1995.

E. TERMINATION RATES

***** **484.2359 THIS SECTION IS REPEALED BY ACT 295 OF 2000 EFFECTIVE DECEMBER 31, 2005:**
See 484.2604 *****

484.2359 Termination of local traffic; establishment of rate charge; agreement.

Sec. 359. (1) No later than January 1, 1996, a provider of basic local exchange service shall establish a rate charge for other providers of basic local exchange service for the termination of local traffic on its network as provided under section 352.

(2) This section does not prohibit providers of basic local exchange service from entering into an agreement to provide for the exchange of local traffic on other terms and conditions. Any compensation arrangements agreed to between providers under this subsection shall be available to other providers with the same terms and conditions on a nondiscriminatory basis.

History: Add. 1995, Act 216, Imd. Eff. Nov. 30, 1995.

F. DIRECTORY ASSISTANCE

***** 484.2360 THIS SECTION IS REPEALED BY ACT 295 OF 2000 EFFECTIVE DECEMBER 31, 2005:
See 484.2604 *****

484.2360 Directory assistance; establishment of rate; agreement.

Sec. 360. (1) No later than January 1, 1996, a provider of basic local exchange service shall establish a rate to other providers of basic local exchange service for providing directory assistance.

(2) This section does not prohibit providers of basic local exchange service from entering into an agreement to provide for the exchange of providing directory assistance on other terms and conditions.

History: Add. 1995, Act 216, Imd. Eff. Nov. 30, 1995.

G. ATTACHMENT RATES

***** 484.2361 THIS SECTION IS REPEALED BY ACT 295 OF 2000 EFFECTIVE DECEMBER 31, 2005:
See 484.2604 *****

484.2361 "Attachment" and "usable space" defined; rates, terms, and conditions for attachments.

Sec. 361. (1) As used in this section:

(a) "Attachment" means any wire, cable, facility, or other apparatus installed upon any pole or in any duct or conduit, owned or controlled, in whole or in part, by a provider.

(b) "Usable space" means the total distance between the top of a utility pole and the lowest possible attachment point that provides the minimum allowable grade clearance and includes the space which separates telecommunication and power lines.

(2) A provider shall allow and establish the rates, terms, and conditions for attachments by another provider, cable service, or an educational institution establishing a telecommunication system under section 307.

(3) The rates, terms, and conditions shall be just and reasonable. A rate shall be just and reasonable if it assures the provider recovery of not less than the additional costs of providing the attachments, nor more than an amount determined by multiplying the percentage of the total usable space, or the percentage of the total duct or conduit capacity, which is occupied by the attachment, by the sum of the operating expenses and actual capital costs of the provider attributable to the entire pole, duct, or right-of-way.

(4) An attaching provider or cable service shall obtain any necessary authorization before occupying public ways or private rights-of-way with its attachment.

(5) A public utility that directly provides a regulated telecommunication service or cable service shall establish the rates, terms, and conditions for attachments as provided under this section.

(6) This section shall not be construed to limit the commission's authority to regulate the rates, terms, and conditions of attachments upon poles or in ducts or conduits owned or controlled by utilities engaged in the transmission of electricity for light, heat, or power.

History: Add. 1995, Act 216, Imd. Eff. Nov. 30, 1995;—Am. 1997, Act 183, Imd. Eff. Dec. 30, 1997.

H. IMPUTATION

***** 484.2362 THIS SECTION IS REPEALED BY ACT 295 OF 2000 EFFECTIVE DECEMBER 31, 2005:

*See 484.2604 ******

484.2362 Rate subject to certain conditions; limitation.

Sec. 362. (1) The rate of a provider of local exchange service is subject to subsection (2) if all of the following apply:

- (a) The provider has a service that competes with a service of another provider.
 - (b) The other provider utilizes a service, including any unbundled service element or basic network component, from the provider of local exchange service that is not available within the relevant market or geographic area from any other provider of local exchange service.
 - (c) The provider of local exchange service uses that same noncompetitive service or its functional equivalent.
- (2) The rate of a telecommunication service shall exceed the sum of both of the following:
- (a) The tariffed rates, including access, carrier common line, residual interconnection, and similar charges, for the noncompetitive service or its functional equivalent that is actually used by the provider of local exchange service, as those rates would be charged a customer for the use of that service.
 - (b) The total service long run incremental costs of all other components of the provider of local exchange service.

History: Add. 1995, Act 216, Imd. Eff. Nov. 30, 1995.

I. CUSTOMER DATA BASE

******* 484.2363 THIS SECTION IS REPEALED BY ACT 295 OF 2000 EFFECTIVE DECEMBER 31, 2005:**
*See 484.2604 ******

484.2363 Access to data bases.

Sec. 363. Providers of basic local exchange service shall allow access by other providers, on a nondiscriminatory basis and in a timely and accurate manner, to data bases, including, but not limited to, the line information data base (LIDB), the 800 data base, and other information necessary to complete a call within the exchange, either on terms and conditions as the providers may agree or as otherwise ordered by the commission.

History: Add. 1995, Act 216, Imd. Eff. Nov. 30, 1995.

ARTICLE 3B
FEDERAL PROGRAMS

******* 484.2375 THIS SECTION IS REPEALED BY ACT 295 OF 2000 EFFECTIVE DECEMBER 31, 2005:**
*See 484.2604 ******

484.2375 Providers receiving federal universal service support for services provided to elementary and secondary schools; discounts.

Sec. 375. All providers of telecommunications services within this state that receive federal universal service support for telecommunications services provided to eligible elementary and secondary schools, under the telecommunications act of 1996, Public Law 104-104, 110 Stat. 56, shall provide those intrastate services at discounts equal to the discounts applicable for eligible interstate services.

History: Add. 1997, Act 95, Imd. Eff. Aug. 7, 1997.

******* 484.2376 THIS SECTION IS REPEALED BY ACT 295 OF 2000 EFFECTIVE DECEMBER 31, 2005:**
*See 484.2604 ******

MICHIGAN TELECOMMUNICATIONS ACT

484.2376 Providers receiving federal universal service support for services provided to libraries; discounts.

Sec. 376. All providers of telecommunications services within this state that receive federal universal service support for telecommunications services provided to eligible libraries, under the telecommunications act of 1996, Public Law 104-104, 110 Stat. 56, shall provide those intrastate services at discounts equal to the discounts applicable for eligible interstate services.

History: Add. 1997, Act 96, Imd. Eff. Aug. 7, 1997.

ARTICLE 4 UNREGULATED SERVICES

***** **484.2401 THIS SECTION IS REPEALED BY ACT 295 OF 2000 EFFECTIVE DECEMBER 31, 2005:**
See 484.2604 *****

484.2401 Unregulated services generally.

Sec. 401. (1) Except as otherwise provided by law or preempted by federal law, the commission shall not have authority over enhanced services, paging, cellular, mobile, and answering services, video, cable service, pay-per-view, shared tenant, private networks, financial services networks, radio and television, WATS, personal communication networks, municipally owned telecommunication system, 800 prefix services, burglar and fire alarm services, energy management services, except for state institutions of higher education the reselling of centrex or its equivalent, payphone services, and the reselling of an unlicensed telecommunication service. The foregoing services shall not be considered part of basic local exchange service.

(2) Except as otherwise provided by this act, the commission shall not have the authority over a telecommunication service not specifically provided for in this act.

History: 1991, Act 179, Eff. Jan. 1, 1992;—Am. 1995, Act 216, Imd. Eff. Nov. 30, 1995.

***** **484.2402 THIS SECTION IS REPEALED BY ACT 295 OF 2000 EFFECTIVE DECEMBER 31, 2005:**
See 484.2604 *****

484.2402 Unregulated services; tariff.

Sec. 402. (1) A provider of an unregulated service may file with the commission a tariff which shall contain the information the provider determines to be appropriate regarding the offered service.

(2) The commission shall retain a tariff filed under this section and make all information contained in the tariff available to the public.

History: 1991, Act 179, Eff. Jan. 1, 1992.

***** **484.2403 THIS SECTION IS REPEALED BY ACT 295 OF 2000 EFFECTIVE DECEMBER 31, 2005:**
See 484.2604 *****

484.2403 Impairing speed of connection to telecommunication emergency service.

Sec. 403. A provider of unregulated telecommunication services shall not at any time refuse, charge, delay, or impair the speed of the connecting of a person to a telecommunication emergency service.

History: 1991, Act 179, Eff. Jan. 1, 1992.

ARTICLE 5 PROHIBITED ACTIVITY

484.2501 Repealed. 1995, Act 216, Imd. Eff. Nov. 30, 1995.

Compiler's note: The repealed section pertained to providing harmful service.

***** **484.2502 THIS SECTION IS REPEALED BY ACT 295 OF 2000 EFFECTIVE DECEMBER 31, 2005**

484.2502 Provider of telecommunication service; prohibited conduct; assurance of discontinuance.

Sec. 502. (1) A provider of a telecommunication service shall not do any of the following:

- (a) Make a statement or representation, including the omission of material information, regarding the rates, terms, or conditions of providing a telecommunication service that is false, misleading, or deceptive.
- (b) Charge an end-user for a subscribed service that the end-user did not make an initial affirmative order. Failure to refuse an offered or proposed subscribed service is not an affirmative order for the service.
- (c) If an end-user has canceled a service, charge the end-user for service provided after the effective date the service was canceled.
- (d) If a residential end-user has orally ordered a service, fail to confirm the order in writing within 15 days after the service is ordered.
- (e) State to an end-user that their basic local exchange service or other regulated service will be discontinued unless the end-user pays a charge that is due for an unregulated service.
- (f) Disparage the services, business, or reputation of another by false or misleading representation of fact.
- (g) Represent to a party to whom services are supplied that the services are being supplied in response to a request made by or on behalf of the party when they are not.
- (h) Cause a probability of confusion or a misunderstanding as to the legal rights, obligations, or remedies of a party to a transaction.
- (i) Represent or imply that the subject of a transaction will be provided promptly, or at a specified time, or within a reasonable time, if the provider knows or has reason to know it will not be so provided.
- (j) Cause coercion and duress as a result of the time and nature of a sales presentation.

(2) When the commission has authority to bring a proceeding for violation of this section, the commission may accept an assurance of discontinuance of a method, act, or practice which is alleged to be unlawful under this section from the person who is alleged to have engaged, be engaging, or be about to engage in the method, act, or practice. The assurance shall not be an admission of guilt or be introduced in any other proceeding. Unless rescinded by the parties or voided by the court for good cause, the assurance may be enforced in the circuit court by the parties to the assurance. The assurance may include a stipulation for any of the following:

- (a) The voluntary payment by the person for the cost of investigation.
- (b) An amount to be held in escrow pending the outcome of an action.
- (c) An amount for restitution to an aggrieved person.

History: Add. 1995, Act 216, Imd. Eff. Nov. 30, 1995;—Am. 2000, Act 295, Imd. Eff. July 17, 2000.

***** **484.2503 THIS SECTION IS REPEALED BY ACT 295 OF 2000 EFFECTIVE DECEMBER 31, 2005**

484.2503 Rules; use of unpublished telephone number from telephone caller identification service.

Sec. 503. (1) The commission shall promulgate rules that establish privacy guidelines in the providing of telecommunication services.

(2) The rules promulgated under this section shall include, but need not be limited to, protections against the releasing of certain customer information and customer privacy intrusions.

(3) A person who obtains an unpublished telephone number using a telephone caller identification service shall not do any of the following without the written consent of the customer of the unpublished telephone number:

- (a) Disclose the unpublished telephone number to another person for commercial gain.
- (b) Use the unpublished telephone number to solicit business.

MICHIGAN TELECOMMUNICATIONS ACT

(c) Intentionally disclose the unpublished telephone number through a computer data base, on-line bulletin board, or other similar mechanism.

History: Add. 1995, Act 216, Imd. Eff. Nov. 30, 1995;—Am. 2000, Act 295, Imd. Eff. July 17, 2000.

***** **484.2504 THIS SECTION IS REPEALED BY ACT 295 OF 2000 EFFECTIVE DECEMBER 31, 2005:**
See 484.2604 *****

484.2504 Small and minority-owned telecommunication business participation plan.

Sec. 504. Each regulated telecommunications provider shall file with the commission a small and minority owned telecommunication business, as defined by the department of management and budget, participation plan within 60 days of the effective date of this act. Competing telecommunication providers shall file such a plan with the commission with their application for license. Such plan shall contain such entity's plan for purchasing goods and services from small and minority telecommunications businesses and information on programs, if any, to provide technical assistance to such businesses.

History: Add. 1995, Act 216, Imd. Eff. Nov. 30, 1995.

***** **484.2505 THIS SECTION IS REPEALED BY ACT 295 OF 2000 EFFECTIVE DECEMBER 31, 2005:**
See 484.2604 *****

484.2505 Switching to another telecommunications provider; authorization of end user required; orders; "end user" and "telecommunications provider" or "provider" defined.

Sec. 505. (1) An end user of a telecommunications provider shall not be switched to another provider without the authorization of the end user.

(2) The commission shall issue orders to ensure that an end user of a telecommunications provider is not switched to another provider without the end user's oral authorization, written confirmation, confirmation through an independent third party, or other verification procedures subject to commission approval, confirming the end user's intent to make a switch and that the end user has approved the specific details of the switch. The order issued under this section shall require that all providers comply with the regulations established by the federal communications commission on verification procedures for the switching of an end user's telecommunications provider.

(3) As used in this section and section 506:

(a) "End user" means the retail subscriber of a telecommunications service.

(b) "Telecommunications provider" or "provider" means a person that provides 1 or more telecommunications services for compensation. Telecommunications provider does not include a provider of commercial mobile service as defined in section 332(d)(1) or part I of title III of the communications act of 1934, chapter 652, 96 Stat. 1096, 47 U.S.C. 332.

History: Add. 1998, Act 260, Eff. Oct. 1, 1998.

Popular name: Slamming

***** **484.2506 THIS SECTION IS REPEALED BY ACT 295 OF 2000 EFFECTIVE DECEMBER 31, 2005**

484.2506 Violation of § 484.2505 or § 484.2507; contested case; hearings; remedies and penalties; exception; finding of frivolous complaint or defense.

Sec. 506. (1) Upon the receipt of a complaint filed by a person alleging a violation of section 505 or 507, an end-user who has been switched to another provider or had services added in violation of section 505 or 507, or a provider who has been removed as an end-user's provider without the end-user's authorization, or upon the commission's own motion, the commission may conduct a contested case as provided under section 203. The commission shall create, and shall supply upon request, a form affidavit designed to enable an end-user to provide

MICHIGAN TELECOMMUNICATIONS ACT

all information necessary to promote efficient resolution of complaints alleging a violation of section 505 or 507. Hearings conducted under this section shall comply with the following requirements:

(a) Hearings shall be conducted in a manner as to optimize expediency, convenience, and the ability of end-users to bring and prosecute, without the assistance of counsel, complaints alleging violations of section 505 or 507, while preserving the rights of the parties.

(b) If possible, the commission shall hold the hearing at a location near the end-user's residence or place of business.

(2) If the commission finds that a person has violated section 505 or 507 or an order issued under section 505 or 507, the commission shall order remedies and penalties to protect and make whole end-users and other persons who have suffered damages as a result of the violation, including, but not limited to, 1 or more of the following:

(a) Order the person to pay a fine for the first offense of not less than \$20,000.00 or more than \$30,000.00. For a second and any subsequent offense, the commission shall order the person to pay a fine of not less than \$30,000.00 or more than \$50,000.00. If the commission finds that the second or any of the subsequent offenses were knowingly made in violation of section 505 or 507, the commission shall order the person to pay a fine of not more than \$70,000.00. Each switch made in violation of section 505 or service added in violation of 507 shall be a separate offense under this subdivision.

(b) Order an unauthorized provider to refund to the end-user any amount greater than the end-user would have paid to an authorized provider.

(c) Order a portion between 10% to 50% of the fine assessed under subdivision (a) be paid directly to the customer who suffered the violation of section 505 or 507.

(d) Order an unauthorized provider to reimburse an authorized provider an amount equal to the amount paid by the end-user that should have been paid to the authorized provider.

(e) If the person is licensed under this act, revoke the license if the commission finds a pattern of violations of section 505 or 507.

(f) Issue cease and desist orders.

(3) Notwithstanding subsection (2), a fine shall not be imposed for a violation of section 505 or 507 if the provider has otherwise fully complied with sections 505 and 507 and shows that the violation was an unintentional and bona fide error notwithstanding the maintenance of procedures reasonably adopted to avoid the error. Examples of a bona fide error include clerical, calculation, computer malfunction, programming, or printing errors. An error in legal judgment with respect to a person's obligations under section 505 is not a bona fide error. The burden of proving that a violation was an unintentional and bona fide error is on the provider.

(4) If the commission finds that a party's complaint or defense filed under this section is frivolous, the commission shall award to the prevailing party costs, including reasonable attorney fees, against the nonprevailing party and their attorney.

History: Add. 1998, Act 259, Eff. Oct. 1, 1998;—Am. 2000, Act 295, Imd. Eff. July 17, 2000.

***** **484.2507 THIS SECTION IS REPEALED BY ACT 295 OF 2000 EFFECTIVE DECEMBER 31, 2005** *****

484.2507 Optional services; authorization of end-user.

Sec. 507. (1) A telecommunications provider shall not include or add optional services in an end-user's telecommunications service package without the express oral or written authorization of the end-user.

(2) Upon the receipt of a complaint filed by a person alleging a violation of this section or upon the commission's own motion, the commission may conduct a contested case as provided under section 203.

History: Add. 2000, Act 295, Imd. Eff. July 17, 2000.

ARTICLE 6 PENALTIES, REPEALS, AND EFFECTIVE DATES

***** **484.2601 THIS SECTION IS REPEALED BY ACT 295 OF 2000 EFFECTIVE DECEMBER 31, 2005** *****

MICHIGAN TELECOMMUNICATIONS ACT

484.2601 Remedies and penalties.

Sec. 601. If after notice and hearing the commission finds a person has violated this act, the commission shall order remedies and penalties to protect and make whole ratepayers and other persons who have suffered an economic loss as a result of the violation, including, but not limited to, 1 or more of the following:

(a) Except as provided in subdivision (b), the person to pay a fine for the first offense of not less than \$1,000.00 nor more than \$20,000.00 per day that the person is in violation of this act, and for each subsequent offense, a fine of not less than \$2,000.00 nor more than \$40,000.00 per day.

(b) If the provider has less than 250,000 access lines, the provider to pay a fine for the first offense of not less than \$200.00 or more than \$500.00 per day that the provider is in violation of this act, and for each subsequent offense a fine of not less than \$500.00 or more than \$1,000.00 per day.

(c) A refund to the ratepayers of the provider of any collected excessive rates.

(d) If the person is a licensee under this act, that the person's license is revoked.

(e) Cease and desist orders.

(f) Except for an arbitration case under section 252 of part II of title II of the communications act of 1934, chapter 622, 110 Stat. 66, attorney fees and actual costs of a person or a provider of less than 250,000 end-users.

History: 1991, Act 179, Eff. Jan. 1, 1992;—Am. 1995, Act 216, Imd. Eff. Nov. 30, 1995;—Am. 2000, Act 295, Imd. Eff. July 17, 2000.

***** **484.2602 THIS SECTION IS REPEALED BY ACT 295 OF 2000 EFFECTIVE DECEMBER 31, 2005:**
See 484.2604 *****

484.2602 Passing costs incurred pursuant to § 484.2601 through to customers prohibited.

Sec. 602. The commission shall assure that none of the amounts paid pursuant to section 601 or any other related defense costs are passed through to the provider's customers in any manner.

History: 1991, Act 179, Eff. Jan. 1, 1992.

***** **484.2603 THIS SECTION IS REPEALED BY ACT 295 OF 2000 EFFECTIVE DECEMBER 31, 2005:**
See 484.2604 *****

484.2603 Repeal of acts and parts of acts.

Sec. 603. The following acts and parts of acts are repealed:

<u>Year of Act</u>	<u>Public Act Number</u>	<u>Section Numbers</u>	<u>Compiled Law Sections (1979)</u>
1883	72		484.51
1913	206	1 to 3f	484.101 to 484.103f
		4 to 11a	484.104 to 484.111a
		12 to 14	484.112 to 484.114
		19 to 24	484.119 to 484.124
		26	484.126
1913	383		469.491 to 469.493

History: 1991, Act 179, Eff. Jan. 1, 1992.

***** **484.2604 THIS SECTION IS REPEALED BY ACT 295 OF 2000 EFFECTIVE DECEMBER 31, 2005**

MICHIGAN TELECOMMUNICATIONS ACT

484.2604 Repeal of act.

Sec. 604. This act is repealed effective December 31, 2005.

History: 1991, Act 179, Eff. Jan. 1, 1992;—Am. 1995, Act 216, Imd. Eff. Nov. 30, 1995;—Am. 2000, Act 295, Imd. Eff. July 17, 2000.

484.2605 Repealed. 1995, Act 216, Imd. Eff. Nov. 30, 1995.

Compiler's note: The repealed section pertained to effective date of the act.

ARTICLE 7 TELECOMMUNICATION SERVICE DUTIES

***** **484.2701 THIS SECTION IS REPEALED BY ACT 295 OF 2000 EFFECTIVE DECEMBER 31, 2005**

484.2701 Rates; determination; limitations.

Sec. 701. (1) Notwithstanding any other provision of this act and except as allowed by section 304(10) or for services determined to be competitive under subsection (3) and for rates charged under contract, the rate charged for every telecommunication service provided to an end-user in this state shall be no higher than the rate charged for the service as of May 1, 2000.

(2) The rate for any new service not offered under a contract that is functionally equivalent or substantially similar to an existing service shall be set no greater than the rate allowed for the existing service under subsection (1).

(3) The rates determined under this section shall remain in effect for each service until December 31, 2003, or until the commission determines that a service is competitive for an identifiable class or group of customers in an exchange, group of exchanges, or other clearly defined geographical area, whichever is earlier.

(4) The commission shall issue a determination as to whether a service is competitive within 60 days from the date the application is filed. If the determination is not made within the 60 days, the service is considered competitive.

(5) A complaint arising under this section shall be determined by the commission under section 203.

History: Add. 2000, Act 295, Imd. Eff. July 17, 2000.

Table Of Contents

MICHIGAN TELECOMMUNICATIONS ACT — Act 179 of 1991	1
484.2101 Short title; purpose.	1
484.2102 Definitions.	3
484.2103 Construction of act; report on status of competition in telecommunication services.	4
484.2201 Michigan public service commission; jurisdiction; authority; administration of act; consistency with federal laws, rules, orders, and regulations.	4
484.2202 Michigan public service commission; additional powers and duties.	5
484.2203 Commencement of case; filing; emergency relief order; burden of proof; investigation; hearings; judicial review; continuation of service; posting security; alternative dispute process; additional relief.	6
484.2203a Resolution of complaint by alternative means.	7
484.2204 Disagreement between telecommunication providers; application for resolution.	7
484.2205 Investigation and resolution of service complaints; commission authority.	7
484.2206 Repealed. 1995, Act 216, Imd. Eff. Nov. 30, 1995.	8
484.2207 Directory assistance service; regulation of rates and quality of service.	8
484.2207a Repealed. 1995, Act 216, Imd. Eff. Nov. 30, 1995.	8
484.2208 Existence of competitive market for regulated telecommunication service; classification as competitive service; deregulation.	9
484.2209 Awarding costs to prevailing party where frivolous position taken in proceeding; “frivolous” and “prevailing party” defined.	9
484.2210 Trade secrets and commercial or financial information; exemption from freedom of information act; protective order; presumption.	9
484.2211 Assessment.	10
484.2212 Repealed. 1995, Act 216, Imd. Eff. Nov. 30, 1995.	10
484.2213 Rules.	10
484.2214 Community resource information and referral entity; designation as 2-1-1 answering point.	11
484.2251-484.2254 Repealed. 2002, Act 48, Eff. Nov. 1, 2002.	11
484.2301 License to provide or resell basic local exchange service; temporary license.	11
484.2302 Approval of application for license; required findings; retention of license and availability of information.	11
484.2303 Commission authority to alter or amend geographic area of license, grant competing license, or revoke license; interconnection arrangements; effect of sale or transfer of stock; addition, elimination, or modification of area code.	12
484.2304 Alteration of basic local exchange rates; requirements.	13
484.2304a Rate restructure for basic local exchange, toll, and access services; requirements.	14
484.2304b Basic local exchange rate options.	14

Table of Contents

484.2305	Provider of basic local exchange service; prohibited conduct.	15
484.2306	Toll services or interconnection with toll provider.	15
484.2307	Educational institutions generally.	16
484.2307a	Repealed. 1995, Act 216, Imd. Eff. Nov. 30, 1995.	16
484.2308	Basic local exchange or access rates; proceeds from sale, lease, or transfer of rate acquired assets; use; notification; review.	16
484.2309	Local directory assistance; annual printed telephone directory; interzone service; 900 prefix services.	17
484.2309a	Cable service.	17
484.2309b	Provider of inter-LATA toll service; prohibited conduct.	17
484.2310	Rates for toll access services; exception.	18
484.2311	Special toll access or switched access; prices; availability for resale.	18
484.2312	Rates for toll services; availability of service; adjacent exchange toll calling plans; mandatory minimum monthly or flat-rate charge.	19
484.2312a	Provider of basic local exchange service; 1+intra-LATA toll dialing parity.	19
484.2312b	Repealed. 1995, Act 216, Eff. July 1, 1997.	19
484.2313	Discontinuance of service.	19
484.2314	Discontinuance of regulated service for failure to pay rate or charge for unregulated service prohibited; determination of conditions for discontinuance under section.	20
484.2314a	Customer on active duty in military; shut-off protection.	20
484.2315	Text telephone-telecommunications device for the deaf; relay service; advisory board; rates; discounts; recovery of costs.	21
484.2316	Rates for low income residential customers; reduction; notification of lifeline services.	22
484.2316a	Definitions; creation of intrastate universal service fund; provision of supported telecommunication services.	22
484.2317	Operator service providers; requirements; registration; fee; rate limitation; failure to pay charge; violation of section.	23
484.2318	Payphone service; discrimination prohibited; compliance with nonstructural safeguards.	24
484.2319	Provider of payphone service; rate of compensation.	24
484.2320	Payphone service; registration required; report of inoperative payphone; notification; rules or orders; regulation of service by local unit of government.	25
484.2321	Provider of regulated telecommunication service; limitation on rate charge.	25
484.2322	Definitions; access to broadband internet access transport services; report.	26
484.2351	Providers of basic local exchange service or basic local exchange and toll service; applicability of article.	26
484.2352	Rates for basic local exchange service for interconnection; rates for unbundled loops, number portability, and termination of local traffic.	26
484.2353	Report and recommendations.	26

Table of Contents

484.2354	Provider of basic local exchange service; prohibited conduct; applicability of subsection (1)(a).	27
484.2355	Service unbundling and separate pricing.	27
484.2356	Co-location with other providers.	27
484.2357	Basic local exchange services; availability for resale.	28
484.2358	“Number portability” defined; order to provide service; availability of direct inward dialing and remote call forwarding.	28
484.2359	Termination of local traffic; establishment of rate charge; agreement.	28
484.2360	Directory assistance; establishment of rate; agreement.	29
484.2361	“Attachment” and “usable space” defined; rates, terms, and conditions for attachments.	29
484.2362	Rate subject to certain conditions; limitation.	30
484.2363	Access to data bases.	30
484.2375	Providers receiving federal universal service support for services provided to elementary and secondary schools; discounts.	30
484.2376	Providers receiving federal universal service support for services provided to libraries; discounts.	31
484.2401	Unregulated services generally.	31
484.2402	Unregulated services; tariff.	31
484.2403	Impairing speed of connection to telecommunication emergency service.	31
484.2501	Repealed. 1995, Act 216, Imd. Eff. Nov. 30, 1995.	32
484.2502	Provider of telecommunication service; prohibited conduct; assurance of discontinuance.	32
484.2503	Rules; use of unpublished telephone number from telephone caller identification service.	33
484.2504	Small and minority-owned telecommunication business participation plan.	33
484.2505	Switching to another telecommunications provider; authorization of end user required; orders; “end user” and “telecommunications provider” or “provider” defined.	33
484.2506	Violation of § 484.2505 or § 484.2507; contested case; hearings; remedies and penalties; exception; finding of frivolous complaint or defense.	34
484.2507	Optional services; authorization of end-user.	34
484.2601	Remedies and penalties.	35
484.2602	Passing costs incurred pursuant to § 484.2601 through to customers prohibited.	35
484.2603	Repeal of acts and parts of acts.	35
484.2604	Repeal of act.	36
484.2605	Repealed. 1995, Act 216, Imd. Eff. Nov. 30, 1995.	36
484.2701	Rates; determination; limitations.	36